



The Domain of Morality

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Abstract

Taking stock of standard philosophical analyses of the concept, it is proposed that the domain of morality be defined by reference to seven characteristics: normativity, informality, importance, universality, categoricalness, overridingness, and a reference to beneficence and justice as the basic contents of its rules. These features establish a rather sharp distinction between moral and conventional rules. Recent literature in evolutionary morality and moral psychology, however, challenged the existence of a neat distinction between the moral and the conventional domains. The paper discusses three prominent objections to the proposed analysis that can be found in the empirical literature on morality: one centering on the relevance of moral sentiments, one based on the phenomenon of “harmless wrongdoing”, and one on the rejection of the universality and independence from authority of the moral domain. It is shown that the proposed analysis can be defended in light of the empirical findings.

Keywords Morality · Conventions · Categorialness · Overridingness · Universality

Morality is the object of moral philosophy, just as living things and their vital processes are the objects of biology. And just as biology provides a general characterization of what it is to be a living organism, and of the characteristics shared by living things, moral philosophy must provide a definition of morality: What characterizes the moral domain? How can we distinguish moral from non-moral action? What makes a judgment a moral one?

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Philosophers have long characterized morality based on several, not always overlapping elements (Brandt, 1979; Frankena, 1970; Gert, 1998; Gewirth, 1978). Most have agreed on a distinction between moral rules and judgments¹ on the one side, and conventional ones on the other; such a distinction has been defended also by psychologists who have studied the ‘moral phenomenon’ both in adults and infants (Kohlberg, 1981; Turiel, 1983). Philosophers and psychologists have also converged on the possibility to conceive morality as a unitary domain. In recent years, however, both the morality/convention distinction and the unity of the moral domain have been under attack (Machery & Stich, 2022; Sinnott-Armstrong, 2016). In this paper, I will (a) provide a more systematic definition of the domain of morality building on traditional philosophical accounts, (b) defend the distinction between moral and conventional rules, showing that empirical evidence has not falsified it so far and (c) reclaim the unity of the moral domain.

1 An Account of the Moral Domain

Several attempts have been made to distinguish moral judgments from other propositions. As noted by Frankena (1970), the philosophers’ attempt has been either to describe the ordinary use of moral concepts or to defend a way to conceive them. I will entertain the second, normative attempt: the definition of how best we *should* conceive the moral domain. This attempt captures basic elements of the ordinary experience of morality that are implicit in common sense and can be detected by psychological research; as a normative analysis, however, it is compatible with evidence showing that some ordinary usage of moral terms fails to comply with it. Speaking of similar normative attempts, Stich declared that such analyses “were, at best, very sketchy. And more often than not they were not endorsed by anyone but the author” (Stich, 2019, 30). I will provide a more detailed analysis, starting from what seems to be—even in light of Stich’s analysis—a relevant consensus on four main characteristics. I will defend these four characteristics and add three more that are very often cited as well; I will suggest that the moral domain can be best characterized by these seven features, which are consistent with our ordinary conception of morality and at least implicitly endorsed by most theoretical accounts of the moral domain.

1.1 Normativity

‘You ought to keep your promise, and accompany your friend to the party’ is, non-controversially, a moral judgment; ‘Mary did not accompany her friend to the party’ is, non-controversially, a non-moral one. What accounts for the difference between the two? One major difference, of course, is that the first is a *normative* judgment, while the second is a *descriptive* one: the latter simply declares that some state of affairs was obtained, while the former recommends or promotes its accomplishment.

¹ I will mainly talk about moral ‘rules’ or ‘norms’ and refer moral judgments to such norms. Since I am not presupposing the priority of rules, it must be understood that whatever I say of moral norms can also (with minor amendments) be said of judgments concerning moral virtues and values.

Recommending and promoting entails offering reasons in favor of certain actions and—either necessarily or with good likelihood—also motivating to act accordingly. Normativity is the first necessary and non-controversial element of a moral judgment. It must be distinguished from prescriptivity that, according to Hare (1952), is the property of entailing an imperative. Moral judgments are not necessarily prescriptive in this sense, since virtues do not necessarily impose obligations, nor do judgments that evaluate states of affairs; nonetheless, they are normative, meaning that they recommend certain behavior or traits, or provide positive or negative evaluations of states of affairs. Normativity, therefore, refers to the fact that moral judgments do not simply describe actions or states of affairs, but also praise or blame, and at least implicitly recommend doing certain actions or promoting certain results.

Clearly, however, the examples of non-moral normativity are many (Morris, 2000): ‘Abortion in Italy is impermissible after twelve weeks, but to save the mother’s life and in case of fetal malformation’ is a normative proposition, just as ‘You ought not to put a knife in your mouth when sitting at the table’, and even as ‘You should not wear a checkered shirt with a striped jacket’. The first proposition belongs to the legal domain, the second to the domain of manners, and the third of aesthetics. Each of these domains has its form of normativity, which seems to differ from morality. What is the specific form of moral normativity?

1.2 Non-institutional or Informal Character

An initial suggestion is to distinguish between *institutional* or *formal* and *non-institutional* or *informal* kinds of normativity (Gert, 1998). This allows us to isolate legal prescriptions from other forms of normativity, because only the former are the result of formal mechanisms of enactment². Legal norms (a) must be approved through definite procedures (b) by a formally appointed authority; (c) they must be clearly written and easily retrievable by anyone, and (d) are tied to well-specified sanctions. None of these conditions is satisfied either for moral, conventional, or aesthetic rules. There are no acknowledged authorities concerning these domains; even though some people offer themselves as guides in etiquette, or as arbiters of elegance, they are not formally appointed in the role, nor respected and followed by everyone, or even the majority. The same holds for morality: even though religious groups such as Roman Catholics do have centralized moral teaching, they generally acknowledge the difference between the rules that are grounded on Revelation, which are laid down by religious institutions and are binding only for the faithful, and the rules that are grounded on our common rationality, are not issued by any institutional authority, and are binding for everyone. The general domain of morality is thus distinguished from the more specific domain of Christian morality, which has different features. This distinction was traditionally formulated as the difference between the *natural* and the *divine* law, where the latter is made up of the prescriptions laid down in the Old and New Testaments, and the former is constituted by the principles and main conclusions of practi-

² Not only legal norms, however, are formal. The norms of professional sports are examples of formal public systems (Gert, 1998, p. 11).

cal reason³. Some authors, admittedly, defend a divine command account, according to which moral rightness and wrongness are ultimately grounded on God's command. However, these are mainly metaethical accounts that do not suggest looking in the Bible, or listening to the Church, to know the content of morality; rather, they assert that any ultimate foundation of the obligation of moral rules must refer to God's will (Adams, 1999). As regards the way in which we come to know what God wills, it seems that divine command theorists must have recourse to standard approaches based on consequences, virtues, or practical reason. In any case, most people, including most theists, do not link the authority of moral rules to the existence of a moral legislator and judge. As for the other characteristics of legal rules, non-institutional rules are not always developed with much clarity and exactness; it is not unusual to be in doubt as to what is exactly required by accepted rules in a certain circumstance. Finally, while sanctions are attached to violations of moral rules, they are not specified and generally amount to nothing more than being the object of blame. The non-institutional character of moral normativity is therefore a second basic feature of the domain of morality.

1.3 Importance and Immunity from Easy Change

Searching for the specificity of moral norms, we may add that aesthetic prescriptions, unlike prescriptions of morals or manners, are questions of 'taste'. In so far as they deal with the external appearance of ourselves and our environment, they exhibit two characteristics: (a) they are comparatively of little importance since they are not concerned with how we treat other people, and (b) they are easily modifiable, based on mere changes in fashion. These two features are connected, because rules dealing with the most important aspects of human relationships—such as harming others or treating them unjustly—are generally considered relatively stable and not radically changing in different times and societies. That aesthetic rules are freely alterable seems so evident as not to deserve much comment: the shape of suits changes almost every season, and very often what was trendy two years ago looks outmoded today (which does not exclude that it might be fashionable again in five more years). The point on importance is perhaps more controversial. It may be objected that art is an important element in human life as well. That the cultivation of beauty is an element of a good life is certainly true: however, the superior importance of morals and manners can be defended by considering their role in regulating human behavior and adjusting the mutual expectations of people. This does not exclude that, in certain social contexts, the way you are dressed *is* a serious matter. These are situations—I suggest—in which the aesthetic rules are not merely aesthetic but perform a social role that includes them in rules of conduct: the importance of wearing a jacket and a tie when entering a certain club does not stem from an aesthetic rule, but from the

³ For this distinction, see Thomas Aquinas, *Summa Theologiae* I-II, 91.2 and 4. The distinction was already suggested by Saint Paul who notes that the Gentiles, who do not have Moses' Law, by nature observe its prescriptions (*Romans* 2.14-15), with reference to the moral precepts, as opposed to the legal and ceremonial ones.

consideration that not doing so would be considered disrespectful by other members. In other words, in these cases aesthetic prescriptions are treated as rules of manners.

Rules of manners, however, are different from moral rules. It is true that, conversely to showing bad taste in dressing or furnishing your house, rules of manners concern reciprocal behavior between people. However, if we look at *standard* examples of rules of manners, it seems clear that they do not share the importance of moral rules. Rules of manners most of the times concern trivial matters and are easily changeable, just as aesthetic rules. While rules against killing people, lying, or betraying another's faith are basic constraints governing fundamental forms of human relationships—and are therefore very difficult to change—rules against eating with your hands, using informal language with elderly or high-ranking people, and showing up at a formal meeting in Bermuda shorts are not considered matters of the utmost importance. Moreover, the rapid and radical relaxation of social rules in the areas of eating, talking, and dressing in recent decades testifies to the merely conventional character of these prescriptions, and the relative ease with which they can be changed. Many conventional rules can in fact be easily abrogated by an acknowledged authority; if, for example, the Dean says that, due to an extreme heat wave, attending the faculty meeting in shorts will be accepted, people will no longer care about the established rule. No academic or other authority has any similar power when it comes to moral rules.

Nonetheless, some rules of manners *are* in fact considered important elements of the social code. For example, the fact that one person speaks loudly on the mobile phone in a train wagon, disturbing other people, can hardly be considered a violation of a moral rule, but is considered important, and may elicit strong negative sentiments. The same goes for someone who satisfies their physical needs in public: although such behavior is not *morally* wrong, it is a serious violation of the rules of social life, one that justifies strong reactive sentiments. Moreover, it seems fair to presuppose that the rule in question cannot so easily be changed. Social norms concerning bodily functions have changed much over the centuries—as shown by Norbert Elias' influential work (1969)—but they are nowadays very well entrenched in the social codes of most societies, and very difficult to modify. Borrowing a phrase from Hart (2012), we can say that some of our conventional norms enjoy a sort of immunity from deliberate change, like that of moral norms.

Moral rules are generally important and cannot be easily changed. Of course, the perceived importance of each rule is varying. For example, lying or breaking promises were traditionally considered very serious violations, while today there is a tendency to be more tolerant of them, and to censure much more other transgressions, such as sexual harassment; this does not mean that those violations are not important as well. Of course, the declining importance of a rule may be a clue of its eventual ceasing to be part of the moral code⁴; however, categorizing a norm as moral and at the same time considering it nonimportant is inconsistent. We can fairly conclude, therefore, that *all* moral norms are important (though in different degrees), not easily

⁴ This happened, for example, for rules of honor and chastity which are nowadays at best seen “as ideological leftovers in the consciousness of obsolete classes, such as military officers or ethnic grandmother” (Berger, 1970, p. 339). On such processes of de-moralization, see Buchanan & Powell, 2018, chapt. 8).

changeable, and independent from authority, while *most* conventional norms are not. However, *some* conventional norms are also important and perhaps also not easily changeable. This suggests that we look for other characteristics belonging to moral prescriptions to distinguish them from conventional ones.

1.4 Universality

A fourth character of moral norms that is very often cited in philosophical literature is their universality (Gewirth, 1978; Hare, 1981). Roughly, this indicates that such norms are not tied to specific times and places but apply to people at other times and places when they find themselves in relevantly similar circumstances. The suggestion is that contrary to the general applicability of moral norms, conventional ones are tied to specific human groups. To say of a rule that is conventional is to say that it suits the conditions of a certain society; as such, a conventional rule generally does not claim applicability outside that society and those conditions. For example, wearing an abaya or a hijab is mandatory for Muslim women in many Muslim countries, but is not required for Western women in any country, not even in Saudi Arabia (although it may be required when entering holy sites)⁵. Although conventional dressing norms for women are considered important in many of those countries, foreigners are not expected to comply with them. Moral norms, by contrast, are endowed with wide-ranging validity.

This element is more controversial than the first three, since moral relativists deny the universal validity of moral norms, suggesting that moral norms are but a subset of particularly relevant moral conventions. Two considerations can be offered in reply. For one thing, it can be conceded that some moral rules are tied to specific social groups, but the fact remains that a small subset of basic moral prohibitions feature in all codes of social morality. Rules concerning fundamental areas of human behavior, such as killing people, harming them for no reason, and inflicting groundless violence, seem ubiquitous in human communities (Curry et al., 2019; Brown, 1991), although the details of their application vary due to local interpretations. Such variations led Jesse Prinz to conclude that these prescriptions cannot be counted as universal since all cultures have accepted exceptions: “Our universal prohibition against harm amounts to the platitude ‘Harm when and only when the pros outweigh the cons’. This is an empty mandate” (Prinz, 2008, 373–374). To this, it can be objected that the fact that most cultures have accepted harming criminals or enemies (and even, although less frequently, children who misbehave), does not show that the mandate is empty: gratuitous harm is universally proscribed, and harm towards in-groups is ever in need of special reasons to be justified. This is sufficient to talk of a qualified universality of the rule, that is, of a natural disposition to develop rules prohibiting harm and promoting care towards members of one’s group: this disposition can be found in all human societies (together with other natural dispositions, including

⁵ See for instance <https://www.commisceo-global.com/blog/media-throw-confusion-over-wearing-of-hijab-in-saudi> (accessed Jan. 25, 2024).

those to self-concern and hostility towards out-groups)⁶. Even empirical researchers who have stressed the differences in the moral outlook of different human societies observed that “the greatest degree of moral commonality [across cultures] may be found in issues related to harm and care” and concluded that “concerns about Harm and Fairness are so widespread that they might be said to be universally used foundations of morality” (Graham et al., 2011, 379 and 380).

Prinz insisted that even the prohibition of incest, long considered the most universal moral prescription, is differently interpreted in different societies, and cannot be considered universal: for example, it may or may not include sex with first or second cousins (Prinz, 2007, 281–285 and Prinz, 2014). However, there is no need for a consensus on the details, in so far as all human societies have rules concerning these basic areas of human interaction, and such rules are very similar; differences in the details, such as whether having sex with one’s stepsister counts as incest or not, are the product of different cultures, but do not belie that all cultures object to having sex with one’s mother, father, and sister or brother.

The second consideration is that, even if it should turn out that there is no universal consensus on any single moral prescription, nonetheless most people feel that there *should be* consensus on a set of basic prohibitions, and perhaps on a much smaller set of positive rules and virtues. They do believe that moral rules are universally valid (Godwin & Darley 2008, 2010); therefore, we may say that the basic moral norms are endowed with (at least) a *claim* to universality. Even if anthropologists should find that, for any moral norm believed universal, there is a single human community somewhere in the world that does not acknowledge its validity, this would not overturn the fact that we expect a universal consensus on a (short) list of basic norms, while we have no similar expectation about other rules. This seems sufficient to distinguish morality as an independent domain.

1.5 Categorical Character

Normativity, informality, and importance are non-controversial characteristics of moral norms: a qualified universality is a fourth highly plausible element of their concept. I will now add three characteristics that are very often invoked to distinguish moral from conventional norms, even if there is some more controversy on their relevance. The first is the categorical character of moral rules, which contrasts with the hypothetical character of conventional ones (Gert, 1998; Gewirth, 1978). The contrast was famously introduced by Kant but is a part of most ethical approaches; and, under different names, it is also a part of several empirical accounts⁷. The categoricalness of morality means that the reasons to follow its rules are not tied to the pursuit of any other goal; we are expected to respect people or keep promises not with a view to obtaining social approval, or some other benefit, but simply because it is right,

⁶ This is consistent with the fact that, in small-scale communities, also the basic norms tend to be applied only to in-groups. However, this moral parochialism can be overcome by exposing ingroups to interactions with people from other communities (Nichols, 2021, p. 80 and 190).

⁷ The notion of ‘externalization’, for instance, as the idea of an obligation that is universal and independent of our subjective preferences and desires, is a re-wording of the notion of categoricalness (Stanford, 2018; O’Neill & Machery 2019).

because there are good reasons for doing so. More precisely, because we believe that respecting people expresses the proper consideration for our fellow creatures and that they have a justified claim to such treatment. This is why our self-interested desires do not provide sufficient reason for evading the requirements grounded on such claims: we cannot free ourselves from moral requirements simply by saying that we don't care. Moral behavior, in other words, is not a means for some other end; the obligation of morality is categorical because it is based on conscience, that is, on our moral sense, as educated through reason and experience. This feature is connected to the independence from authority that characterizes moral prescriptions: in fact, the categoricalness of moral prescriptions ensures that moral obligation is based on reasons that can be acknowledged and shared by all rational persons and cannot be canceled by any external authority⁸.

The obligation of conventional norms, on the contrary, is hypothetical or conditional. The reasons to comply with rules concerning dressing, eating, and satisfying our bodily needs are not grounded on their inherent rightness, or in the belief that failing to comply with them will disrespect or degrade other people. Such reasons are grounded on historical and culturally shaped traditions, and in the desire to avoid being judged ill-mannered or impolite. We feel obliged to comply with them, therefore, *on the condition* that most people continue to approve them and that we desire to be well-received in our social group. For most of these norms, however, we believe that they might be changed, and for some we even believe that we had better change them.

Philippa Foot famously objected to the categorical character of moral prescriptions, defending the view that morality, no less than etiquette, is a system of hypothetical imperatives. She noted that rules of etiquette and club rules also do not cease to apply to someone who does not care about them, and in this sense such rules are non-hypothetical; moreover, she denied the special 'inescapability' of moral imperatives, maintaining that failure to comply with moral requirements cannot be charged with irrationality. Foot's argument presupposes that nothing can count as a reason in favor of an action but the action's satisfying some of our existing desires, or its being a means to one of our ends: on such an account, "Irrational actions are [only] those in which a man in some way defeats his own purpose, doing what is calculated to be disadvantageous or to frustrate his ends" (1972, 162). However, such a Humean view of practical reason is highly controversial (Quinn, 1994). Specifically, it tends to cancel the distinction between motivating reasons and normative reasons, that is, between the considerations in light of which we act, and the considerations that speak in favor of the action. According to the desire view of reasons, for p to be a reason for an agent A to do x is merely to contribute to the explanation of how x satisfies one of A 's desire. But this fails to account for the normative character that reasons often have, that is, for the fact that, beyond explaining why we do x , they can also count in favor of doing it, or of being motivated to do it; moral reasons are considerations that count in favor of an action, not causal forces that drive us towards it (Scanlon, 2014; Dancy, 2000). And just as it is irrational to do an action that is contrary to one of our long-term goals, even if it satisfies some present desire, it is also irrational to do an action

⁸ According to Hindriks & Sauer, 2020, this public acceptability is the fundamental 'mark of morality'.

that gains a slight benefit for ourselves by seriously harming another, thereby failing to consider the reasons provided by the other's objecting to our proposed action. As the late Foot came to recognize (2001, chapt. 5), there is no need to be Kantians to accept that, if you do not do F when doing F is the thing you have most reason to do, you act contrary to practical reason; and a belief concerning what is morally right or wrong can obviously feature among the reasons for doing an action. This opens the way to say that someone who does the wrong thing is *eo ipso* acting against reason. The 'inescapability' of morality, then, stems from the fact that, since we are animals who act for reasons, acting on our best reasons is an inescapable part of our identity.

1.6 Overridingness

One more characteristic of moral rules that is often invoked is their overridingness. This feature is also tied to the importance of moral rules. Moral prescriptions are serious, in that they concern important matters, and therefore have priority over other, less important prescriptions: morality always takes precedence over conventions, aesthetic prescriptions, and etiquette (Frankena, 1970; Hare, 1981). This characteristic is partly controversial, since empirical research has shown that egregious violations of conventional rules—such as a boy wearing a dress to school—are perceived as more serious than minor moral transgressions—such as the same boy stealing an eraser (Turiel, 1983). Such a perception, I suggest, is probably tied to the greater emotional arousal caused by the first action. However, the level of emotional arousal is not equivalent to the seriousness of the violation, and on reflection, it must be acknowledged that stealing *is* more serious and likely to have a wicked influence on the boy's character, even if the harm caused in the present situation is small.

Still, it may be objected that moral requirements are sometimes neglected when in conflict with demands of prudence. For example, when behaving morally is costly for the agent, personal interest may be prioritized; this seem to show that moral requirements are not overriding after all. This conflict between morality and self-interest poses the hard problem of the rationality of being moral, which is too complex to be taken on here (Nagel, 1986, ch. 10; Schaffler, 1993, ch. 4; Copp, 2007, ch. 9). I just want to note that in most cases the conflict shows up in one or the other of two ways. In some situations, the agent feels that, in prioritizing one's interest, they are doing wrong, that is, that this is not what they *should* have done; they should have—for instance—provided help to someone in need, but did not do it, out of indolence and superficiality. These cases do not seem to compromise the overridingness of morality, since moral compliance is prevented by weakness of will: the individual's best judgment is that they *should* do *x*, and yet they eventually reject such judgment and choose *y* (Buss, 1997; Stroud, 2003). In such situations, the unease felt by the agent who knows that they should have acted differently seems to testify to the agent's acknowledging the overridingness of morality. In other cases, the conflict is between showing beneficence or justice towards others and adequately protecting one's well-being. If, for example, saving the life of another person endangers my own life, or risks causing me a permanent injury, I may be justified in prioritizing my own well-being. This, however, should not be considered a conflict between moral and non-moral requirements, but between different moral prescriptions; prudence, in fact,

should be considered a *moral* virtue, and taking due care of oneself a moral duty. Of course, a proper consideration for one's own life and well-being will not allow to disregard any other-related moral requirement; there must a proportion between the good and bad for oneself and for others for the agent's action to be justified, but clearly there are situations in which *morality* requires, or at least justifies, prioritizing one's own good⁹. This does not mean that genuine cases of hard conflict between morality and prudence cannot arise, in which it is difficult to say whether morality is still overriding; these cases, however, are rare, and in most cases morality takes precedence.

Another interesting case is the possible conflict of moral and religious requirements, where what an agent sincerely believes to be God's command conflicts with what morality requires (Abraham's case being the classic example). Religion may take precedence in such situations, which seems to show that morality is not overriding after all. However, it can be observed that, if one holds a divine command theory of morality, the present contrast between morality and religion is only apparent: if God's commands are inherently right, then the actions He commands must be accorded moral priority, and the conflicting moral requirement must surely take second place. The conflict is real, on the contrary, within a rationalistic version of theistic morality. In this case, however, a religious moralist seems allowed to hold that, whenever a supposed command of God conflicts with morality, it cannot be considered God's command. Since God is eminently rational, His commands cannot contrast with morality, for moral prescriptions are dictates of reason. By denying the possibility of conflict, this position preserves the overridingness of morality.

1.7 Content

The features of moral prescriptions introduced so far are formal: they are compatible with any material content. Can we say that any rule displaying these characteristics must be considered a moral one? Or is there any specific content that characterizes the moral domain?

One traditional answer to this question says that the content of morality is behavior affecting others, and particularly behavior harming them: according to Bernard Gert, "Morality has the goal of lessening the amount of evil or harm suffered. If a public system applying to all rational persons does not have this content, then even if it is justified it does not count as a justification of morality" (1998, 13). This answer seems at odds with recent empirical work on morality, particularly in evolutionary biology. Researchers now largely agree that morality as we commonly understand it is grounded in basic systems of social cooperation that were selected by evolution to allow human beings to overcome their natural tendency to selfishness, guaranteeing them the benefits of social coordination and collective intentionality (Nowak, 2011; Boehm, 2012; Greene, 2013; Haidt, 2012; Tomasello, 2016; Sauer, 2023). When viewed from this perspective, morality's goal is not necessarily linked to the avoidance of harm but is only tied to the enhancement of humanity's reproductive fitness: in principle, whatever happens to favor the survival of a human group in certain

⁹ I wish to thank an anonymous reviewer for pressing me to clarify this point.

circumstances (possibly including incest, cannibalism, and parricide), might feature as moral content.

Nonetheless, if we look at the cognitive means used by evolution to create morality, it seems that certain contents are ‘naturally’ a part of what morality is for actual human beings. Most empirical accounts stress the (complex but substantial) role of two cognitive devices in the phylogenetic process that eventually brought humans to moral thought and action: empathy and the theory of mind (de Waal, 2006; Forbes & Grafman, 2010; Gray et al., 2012; Bzdok et al., 2012; Decety & Cowell, 2014; Chen, Martinez, Cheng 2018; Cameron et al., 2022). Empathy is a complex phenomenon, with affective and cognitive dimensions, but essentially allows to perceive and partly share another’s feelings (Maibom, 2020); the theory of mind is the capacity to attribute intentions and beliefs to other people, a capacity that is vital in initiating both strategic and cooperative relationships with others (Goldman 2012). Both mechanisms, therefore, enable an imaginative projection into another person: one more affective, the other more cognitive. These mechanisms are not inherently moral, since they can ground either benevolence or cruelty, either allegiance or defection. Moreover, they also tend to embody standard biases with potentially immoral consequences: the tendency to empathize only with people who are near and like us, and the tendency to turn stable relationships into favoritism for the in-groups and to conceive groups as structured by hierarchy and social domination. All the same, such mechanisms play an important role in the development of morality.

Empirical research has pointed to the ever earlier presence of these mechanisms in the mental development of humans. There is large evidence of empathic behavior in infants aged less than 2 years, starting from reactive crying in the first days of life up to the imaginative empathy associated with perspective-taking (Hoffman, 2000). Moreover, toddlers aged 18 months spontaneously help an adult in reaching his goal (Warneken & Tomasello, 2006), and shortly after also exhibit consolation behavior (Dunfield et al., 2011). Finally, children aged 3 show altruistic tendencies comparable to those of adult individuals in the dictator’s game (Benenson et al., 2007; Gummerum et al., 2010). As for the theory of mind, there is evidence that 6-month-old infants can attribute intentions and desires to others (Woodward, 1998), and 15-month-old ones can attribute a false belief (Onishi & Baillargeon, 2005); moreover, infants aged 8 months show their preference for a puppet who tries unsuccessfully to aid another, rather than for a puppet who tries to harm another (Hamlin, 2013).

These data show that humans have a natural tendency to be concerned with those forms of human relations in which harms and benefits are conferred to one another, and to detect and judge compliance or defection with pacts or cooperative enterprises. Both the evolutionary hypotheses on morality and the research on its early development in children, therefore, provide evidence in favor of considering the two domains of benefits/harms and fairness as the building blocks of morality. This is not to deny that fully developed moralities contain much more than norms of beneficence and justice, nor that this further content is largely shaped by the specificity of each human culture: however, the fact that morality phylogenetically evolved from an empathic concern with the effects of actions on other people’s wellbeing, and from a concern with fairness in cooperation and distribution, together with the evidence that such concerns are present very early in human development, suggest that these

domains are a ‘natural’, universal part of our moral systems, to which other elements are added by different cultures, according to their cultural needs. This is one more element distinguishing moral from conventional norms, since the latter are generally not concerned with basic forms of human relationships, nor with harm/benefit and fairness, but with less important aspects of human social life.

2 Three Objections

According to the foregoing analysis, the domain of morality can be characterized by seven features: (i) normativity; (ii) the non-institutional character of its rules; (iii) the importance of such rules and the difficulty to change them; (iv) their being universal, or at least their claim to be such; (v) their categoricalness; (vi) their overridingness; (vii) their having beneficence and justice as basic contents. Features iv to vii, and partly also feature iii, establish a rather sharp distinction between moral and conventional norms. In the last decades, research in moral psychology has endeavored to vindicate this distinction between the moral and the conventional, based on four elements which largely overlap with our characterization: moral violations are typically more serious than violations of conventional rules; moral rules hold independently from the authority of any individual or institution; they hold generally, not just locally; they typically involve a victim who has been either harmed or wronged (Nucci & Turiel, 1978; Turiel, 1983; Smetana, 1993; Nucci, 2001). These studies have provided evidence for the view that moral judgment can be considered a psychological natural kind (Kumar, 2015): the main properties of moral judgment, that is, act as a homeostatic cluster, displaying a tendency to co-occur.

Recent research has challenged the existence of such a neat distinction between the moral and conventional domains (Stich, 2019; Machery & Stich, 2022). Since this distinction is central to the proposed analysis, its empirical disruption may count as a serious objection to it. I will discuss three prominent objections that can be raised against my analysis in light of empirical findings.

2.1 Sentimentalism

Recent empirical literature on moral psychology focuses on the role of emotions in morality. It has been claimed that rational processes play a much smaller part in eliciting our moral judgments and motivating our actions than it was traditionally thought, and even that the role of emotions and sentiments is paramount. These findings suggest an alternative account of the domain of morality: one that ties it to the existence of specific sentiments or reactive attitudes. A characterization of morality in terms of the appropriateness of certain emotive responses has often been defended in contemporary discussion (Gibbard, 1990; Skorupski, 1993). Along these lines, Hooker (2017) proposed to single out moral judgments by reference to the commitment to the appropriateness of reactive attitudes such as guilt, resentment, and indignation elicited by certain actions; an action, that is, belongs in the field of morality if and only if it rightfully generates some such reaction. This approach is consistent with empirical findings, which show that moral approval and disapproval are present very early

in children who do not possess high-level capacities of rational reflection (Nichols, 2004; Hoffman, 2000; Haidt, 2012). According to Nichols, a sentimental approach to moral judgment also explains why certain classes of conventional violations, such as those generating disgust, also elicit ‘moralized’ reactions: even if they do not satisfy the harm condition, these violations generate strong feelings of repugnance and therefore are perceived as important, universal, and authority independent¹⁰.

The role of emotions and sentiments in morality is obviously important, particularly (but not only) for moral motivation. However, the existence of reactive attitudes hardly suffices to characterize the moral domain. As noted, people do react negatively to violations of conventional rules: anger can be elicited by someone who lets their mobile phone ring at a performance in theatre, and indignation can be generated by inappropriate, too gaudy dressing at a funeral ceremony. What is more relevant, these violations of conventional rules may elicit higher reactive attitudes as compared to breaking a promise or evading taxes; nonetheless, only the latter are thought to belong to the moral domain. Finally, moral judgments are very easily dissociated from the corresponding emotions; when discussing hypothetical cases, we pronounce moral judgments with no emotional involvement, simply by reflecting on the situation and applying some norm that we have internalized. The perceived wrongness of an action is the result of a judgment, and is independent from the experience of a negative emotion.

The spontaneous moral judgments by toddlers may seem to provide evidence in favor of a sentimentalistic account. Particularly for harmful actions, the disposition to empathic concern seems to make the children emotionally attentive to the suffering of others, and therefore generate a negative judgment of the action causing it. This explanation fits what Nichols (2004) called ‘core moral judgments’, which are all harm violations. However, the intuitive reaction is likely caused not by the occurring emotion, but by the activation of a mental scheme, or of basic expectations relative to fundamental forms of social relationship. Such an alternative explanation is suggested, for example, by research showing the existence of judgments of unfairness very early in childhood. Evidence shows the existence of a sensibility toward distributive justice in children less than two years of age. Geraci and Surian (2011) found that 16-month-old children prefer puppets previously characterized as egalitarian distributors, while Schmidt and Sommerville (2011) demonstrated that children aged 15 months show that their expectations are violated when biscuits or other windfall resources are distributed unequally. Such expectation was documented by Buyukozer Dawkins et al. (2019) also in 4-month-old infants; and Sloane et al. (2012) demonstrated that 20-month-old toddlers do not expect egalitarian distributions when the beneficiaries have been characterized as differently deserving. Moreover, the perceived injustice of certain actions influences the children’s disposition to help. While 5-month-old infants prefer a helper in all cases, 8-month-old ones discriminate between cases in which the person helped has been characterized posi-

¹⁰ A different approach is taken by Hindriks and Sauer (2020), who propose that these ‘moralized’, disgust-generating violations are part of a third domain, the ethical domain, intermediate between the moral and the conventional.

tively or negatively (Hamlin et al., 2011). In other words, they prefer that these unjust characters be punished, rather than helped.

It is not plausible to explain such negative judgments with the negative emotional arousal that follows violations of one's interests since in these experimental situations the children were mere spectators and their interests were not affected; moreover, these judgments are made well before they have had the opportunity to learn them from the experience of social interaction, and before being able to verbalize them. All this is evidence of their possessing the psychological bases of moral sense, i.e., a disposition to develop certain expectations relative to basic human relations; the spontaneous approval of what confirms such expectations, and disapproval of what violates them, progressively elicits emotions of sympathy and anger¹¹.

2.2 Harmless Wrongdoing

A related prominent criticism, directly bearing on the distinction between morality and convention, suggests that the moral domain cannot be universally characterized by a concern with harming people (Schweder et al., 1987; Haidt et al., 1993). The point has been substantiated by the existence of cases involving harmless wrongdoing, that is, actions that harm no one, but elicit moral judgments of wrongness entirely analogous to standard moral violations. This tendency to consider moral violations harmless actions that are loaded with strong emotive significance, such as consensual incest, anthropophagy, and disrespect for symbolic objects such as the national flag, is more present in Western people with lower socio-economic status and is particularly evident in non-Western cultures. This suggests that the insistence on the protection of individual autonomy and the restriction on harmful conduct is tied to the individualist Western culture, while other human cultures are mainly imbued with one of two different approaches: the ethics of community and divinity. The former is shaped by a concern for the common good and the respect of authority and social roles, the latter by stress on rules of purity, tied to eating behavior, sexual relationships, and the treatment of dead bodies (Rozin et al., 1999). According to the Moral Foundation Theory, the prominence of beneficence and fairness is not a universally defining character of morality, but a local feature of WEIRD people—i.e., of Western, educated, industrialized, rich, and democratic people—tied to the idiosyncratic Western overemphasis on individuals (Henrich et al., 2010; Henrich, 2020). More generally, if we look at the differences in moral outlook between Westerners and non-Westerners, we can conclude that the very distinction between moral and conventional rules is a local product of Western culture, not a universal psychological trait of humans (Haidt, 2012; Sudge, 2008).

According to critics, this provides evidence in favor of characterizing morality only in terms of its function, excluding reference to content: moral norms are designed to keep society together, and whatever is useful to promote this goal has a role in it.

¹¹ An alternative explanation of such expectations is that they are shaped by the implicit knowledge of a body of rules that are acquired by the children with a few examples and without explicit instruction. This account is based on rational learning processes that are not specific to the moral domain and is meant as an alternative to nativist explanations (Nichols, 2021, 129–150).

Thus, there is no separation between a set of supposedly universal moral prescriptions and a set of conventional ones: there are different sets of social rules, based on the conditions of different societies, each pursuing the universal goal of morality. Evidence in favor of this hypothesis is provided by data showing that children in traditional Arab villages in Israel do not distinguish between moral transgressions and other transgressions involving no harm or infringement of rights, such as mixed-sex bathing or addressing a teacher by her first name (Nisan, 1987); that orthodox Jewish children in the USA treat harmless religious transgressions as authority independent (Nucci & Turiel, 1978); that disgust-inducing actions are considered serious, authority independent, and general by American children (Nichols, 2002).

Two replies can be offered to this objection. For one thing, we have already stressed that moralities include several norms, both ‘universal’ (or presumed such) and ‘parochial’. When anthropologists note that many things prohibited by the moral codes of non-Western societies are not prohibited by our codes, they are not saying that such things as homicide or theft are not considered wrong in those societies; they are stressing that the moral codes of such societies are much wider than the set of basic prescriptions and that some things that may appear innocent to us are prohibited in such codes. The existence of ‘cultural rules’ dealing with issues such as purity or sexual segregation does not contradict the existence of a core set of moral prescriptions related to issues of beneficence and fairness. These cultural additions to the core of morality can sometimes be ‘moralized’ so that these rules are considered serious, general, and authority independent. Considering our normative analysis of the concept of morality, we might be tempted to say that such norms should simply not count as moral norms; however, we may also consider these as secondary norms, meaning not that they are not treated as important by the societies accepting them, but that they extend the domain of morality beyond the ‘basic’ rules of justice and beneficence¹²; the latter, in fact, still feature prominently among the social norms accepted in those societies. Some societies lend these cultural norms some features of moral norms, such as importance and categoricalness; still, these norms are anything but universal, and often are not even claimed to be such. This contrasts with the fact that norms against harm and unfairness feature prominently and are considered central in all moralities. Evidence that the basic moral rules are more original than these cultural rules is provided by the fact that the former, but not the latter, can be detected in very small children. As already noted, a wealth of data now suggests that six-month-old infants are sensible to actions involving beneficence and maleficence, as well as to those involving unequal distributions of goods. Moreover, while Kohlberg (1981) believed that children up to ten years old treat all rules as deriving their authority from an appropriate command, later research showed that, starting from three or four years of age, children distinguish the moral rules based on the four features already mentioned.

The second reply to the objection points to the possibility of reducing the norms tied to the ethics of community and divinity to culturally worked-out versions of the norms of justice or beneficence. It may be held, for example, that rules dictating deference to authorities and imposing respect for social roles are further elabora-

¹² A similar distinction is proposed by Hindriks and Sauer’s idea of the ethical domain (2020).

tions of basic norms of justice: by prioritizing one's claims over the prerogatives of legitimate authorities, the individual violates the authority's rights and endangers the entire community. On the other hand, rules of purity may be considered as cultural specifications of rules against harm: some eating or sexual behavior can be thought to harm either the community or the self. In these cases, of course, *we* tend to say that no one is really harmed, but members of different societies may believe that harm is indeed caused. Moreover, we can also observe that the idea of harming the community, while perhaps less prominent in Western countries, is not alien from our moral outlook. Both beneficence and fairness refer to social behavior, and these ideas cannot be limited to a concern for individual rights: a large part of the discourse on justice centers on the form that the relationships between people should take, and on the effects of such relationships on the social environment. It can also be observed that the idea of individual rights is certainly less prominent, but not quite absent, in Eastern countries: several studies have documented the existence of traditions of political and personal liberty in Asian cultures, and the thesis of a grand dichotomy between Asian and European values has been widely challenged (Sen, 1997; Angle, 2002; Zhao, 2015). There are obvious differences in the emphasis given by Eastern and Western cultures to the rights of individuals and to communitarian values such as the family or social harmony, but a general authoritarian interpretation of Asian values is highly questionable: even the defenders of the Moral Foundations Theory acknowledge that "People in Eastern cultures were *slightly more* likely to value Ingroup and Purity than people in Western cultures" (Graham et al., 2011, p. 381, my emphasis). Finally, the distinction between morality and convention has been found not only in toddlers developing among WEIRD people, but also in small children of quite different cultures, for example in Amish (Nucci & Turiel, 1993), Virgin Islands (Nucci et al., 1983), Korean (Song et al., 1987), and Hong Kong babies (Yau & Smetana, 2003).

2.3 Rejecting Universality and Independence from Authority

A third objection to characterizing morality as opposed to convention can be based on empirical findings showing that the conditions of universality and independence from authority are not always acknowledged for moral norms. For example, Kelly et al. (2007) found that the fact that, in ancient times, a harmful action such as owning slaves was generally considered appropriate by most people tends to diminish the perception of its wrongness; that is, people tend to consider much worse American Southerners who owned slaves in the XIX century than Greeks or Romans who did the same centuries before. Moreover, these authors also found significant differences as to the acceptability of an action such as spanking students who misbehave, depending on whether there is a law prohibiting it or not, and whether the school Principal authorizes the practice or not. These findings cast doubt on the thesis that moral rules enjoy universal value and independence from authority. This research involved participants aged 18 and over, while the standard body of evidence for the morality/convention distinction is provided by young children. The authors were trying to extend the range of transgressions studied, to investigate how people respond to harmful transgressions that transcend the simple ones standardly presented to toddlers.

In response, it can be noted that it is exactly the higher complexity of the situations that may partly explain the results. Unlike toddlers, adult people are disposed to give proper place to a certain ‘dose’ of relativism: for example, they may accept that, in social conditions such as those of ancient Greece, where slavery was considered entirely ‘natural’, it was extremely difficult to acknowledge its wrongness. Therefore, slave owners of ancient times are less guilty than those of the XIX century. In any case, it is significant that, according to the data provided by the authors, 89% of respondents considered slavery also wrong in Greco-Roman societies, with a difference of only 4% as compared to the American South situation (Kelly et al., 2007, p. 126). This is evidence of a noticeable tendency to generalize such a norm. As far as the spanking case is concerned, people’s attitudes on the topic are inevitably much more varied; disagreement on whether spanking children is in fact wrong is possible, with some people considering it an acceptable means, at least in certain situations. In such difficult cases, the existence of a law may tip the balance towards one or the other option. This may account for the dramatic difference found by the authors between the case in which spanking is not prohibited by the law—where 44% of respondents say that it is ok—and that in which the law prohibits it—where acceptance collapses to 5%. When the moral quality of an action is disputable, differences of opinion will be widely voiced, but the existence of a law prohibiting it will convince most people to reject it. This can be contrasted with the fact that only 7% of people declared slavery acceptable in XIX century Southern American States, where the law allowed it: the much lower percentage testifying to the much less controversial nature of the action.

Even in small-scale societies where the influence of local considerations and the influence of moral authorities are stronger, most people consider paradigmatically harmful acts as bad or extremely bad, although allowing the factors of time, place, and authority to reduce the perceived wrongness of the acts (Fessler et al., 2015). This may be because the universal application of the moral rules is very likely a psychological feature of morality that emerged progressively, in passing from small human groups where the stress on the ‘functionalist’ role of morality in protecting moral cohesion is paramount, to large-scale, highly interconnected societies, with a much less tribal understanding of human life. It is consistent with the insistence on the universality of moral judgment to accept that such element progressively emerged from a tendency to moral parochialism that marked the beginnings of moral thought, and that still peeps out at times in our moral judgment.

3 Conclusions

According to Walter Sinnott-Armstrong, moral judgments “are not unified by any single common and distinctive feature that enables important generalizations about distinctive properties of those judgments” (2016, 335). I have claimed that a subsection of moral judgments—that is, basic moral judgments—are unified by their being informal normative judgments on important aspects of human life, with a claim to universality, endowed with categoricalness and overridingness and dealing with issues of harm and fairness. While, from a *descriptive* point of view, it can be conceded that

cultural norms are sometimes considered part of morality even if they lack one or the other of these characteristics, the *normative* analysis offered in this paper shows that basic moral norms and judgments paradigmatically display all of them. The analysis offered here overcomes the sketchiness of normative analyses denounced by Stich (2019, 30) and points to a relevant consensus emerging not only from theoretical analyses but also from empirical accounts of the ‘moral phenomenon’, and from our ordinary convictions concerning moral judgment and moral obligation. In light of what has been said so far, basic moral judgments can plausibly be considered a sort of natural kind whose main properties tend to co-occur and to mutually reinforce as a sort of homeostatic cluster (Kumar, 2015). This primary characterization does not exclude the existence of non-paradigmatic cases of judgments that fail to display one or the other property, and still are considered as belonging to the domain of morality. These ‘secondary’ rules are much nearer to conventional ones, which are also sometimes seen as important, but most often lack the last four characteristics. The concepts of morality and moral obligation are defined by the properties of the basic norms; the secondary norms and their obligation are parasitic on those basic ones.

Declarations

Conflicts of Interest The authors declare that they have no conflict of interest.

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