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Francis J. Beckwith

Excerpt

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PART I

**MORAL REASONING, LAW,
AND POLITICS**

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I

ABORTION AND MORAL ARGUMENT

I have participated in a number of public discussions on the question of abortion.¹ Inevitably, either my opponent or a member of the audience will make the assertion, “Don’t like abortion, don’t have one,” followed by rousing applause by like-minded audience members. This assertion, though common, reveals not only a deep misunderstanding about the nature of the abortion debate but also a confusion about what it means to say that something is morally wrong.

The culprit, I believe, is moral relativism: the view that when it comes to questions of morality, there is no absolute or objective right and wrong; moral rules are merely personal preferences and/or the result of one’s cultural, sexual, or ethnic orientation. So choosing an abortion, like choosing an automobile, a vacation spot, or dessert, is merely a matter of preference. Some people like Häagen Dazs™, others abortion. To each his own. Just like it is wrong for one to judge another’s taste in ice cream – “You will burn in hell for eating almond roca” – it is wrong for one to judge another’s reproductive choices and to ask for the law to reflect that judgment.

Many people see relativism as necessary for promoting tolerance, non-judgmentalism, and inclusiveness, for they think if one believes one’s moral position is correct and others’ incorrect, one is close-minded and intolerant. I will argue in this chapter that not only do the arguments for relativism fail, but that relativism itself cannot live up to its own reputation, for it is promoted by its proponents as the only correct view on morality. This is why relativists typically do not tolerate nonrelativist views, judge those views as mistaken, and maintain that relativism is exclusively right.

Relativism, admittedly, has lost a lot of its rhetorical edge as of late, largely due to its inadequacy in accounting for the deep wickedness of the

reality of terrorist and state-sponsored atrocities of which we continue to grow more aware. For this reason, a rapidly growing number of citizens have no problem with embracing the judgment that there are just some activities that are simply wrong no matter what a particular culture, religion, individual, or public figure may think. Nevertheless, many of these same citizens still resort to embracing relativism when it comes to the issue of abortion, maintaining that reasoning, especially moral reasoning, has no place in this dispute. Thus, in this chapter I critically assess moral relativism. In a section of this critique, I argue that both pro-life and abortion-choice advocates hold a number of moral principles in common, and that the difference between these two contrary points of view does not rest on inconsistent moral principles but on disagreements about the application of these principles and the truth of certain “facts.” I will conclude by showing how it is possible to provide reasons for a particular moral point of view, by employing several examples.

MORAL RELATIVISM AND MORAL DISCOURSE

Moral relativism has stunted the ability of many to grasp the nature of moral claims.² Some people often confuse *preference-claims* with *moral-claims* or reduce the latter to the former. To understand what I mean by this, consider two statements:³

1. I like vanilla ice cream.
2. Killing people without justification is wrong.

The first statement is a preference-claim, as it is a description of a person’s subjective taste. It is not a *normative* claim. It is not a claim about what one ought or ought not to do. It is not saying, “Because I like vanilla ice cream, the government ought to coerce you to eat it as well” or “Everyone in the world ought to like vanilla ice cream too.” A claim of subjective preference tells us nothing about what one *ought to* think or do. For example, if someone were to say, “I like to torture children for fun,” this would tell us nothing about whether it is wrong or right to torture children for fun.

The second claim, however, is quite different. It has little if anything to do with what one likes or dislikes. In fact, one may *prefer* to kill another person without justification and still know that it is morally wrong to do so. This statement is a *moral-claim*. It is not a descriptive claim, for it does not tell us what, why, or how things are, or how a majority of people in fact behave and/or think. Nor is it a preference-claim, for it

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does not tell us what anyone's subjective preference may be or how one prefers to behave and/or think. Rather, it is a claim about what one *ought to do*, which may be contrary to how one in fact behaves and/or prefers to behave.

Unfortunately, the espousal of moral relativism has made it difficult for many people in our culture to distinguish between preference-claims and moral-claims. Rather than pondering and struggling with arguments for and against a particular moral perspective, people sometimes reduce the disagreement to a question of "personal preference" or "subjective opinion." For example, some who defend the abortion-choice position sometimes tell pro-lifers: "Don't like abortion, then don't have one." This instruction reduces the abortion debate to a preference-claim. That is, the objective moral rightness or wrongness of abortion (i.e., whether it involves the unjustified killing of a being who is fully human) is declared, without argument, to be not relevant. But it is clearly a mistake, for those who oppose abortion do so because they believe that the unborn during most if not all of a woman's pregnancy is a full-fledged member of the human community, and it is *prima facie* wrong, both objectively and universally, to kill such a being. For this reason, when the pro-lifer hears the abortion-choice advocate tell her that if she doesn't like abortion she doesn't have to have one, it sounds to her as if the abortion-chooser is saying, "Don't like murder, then don't kill any innocent persons." Understandably, the pro-lifer, committed to objective moral norms, finds such rhetoric perplexing as well as unpersuasive. Of course, many sophisticated abortion-choice advocates are opponents of moral relativism as well.⁴ But it just seems that in the popular debate abortion-choicers tend to reduce the issue of abortion to a matter of preference and thus seem to have been more affected by moral relativism than have their opponents. (But they are *not completely* affected, for they do appeal to "fundamental rights" which are typically grounded in some objective morality.)⁵ It is true that the pro-lifer's arguments may be flawed, but the abortion-choice advocate does not critique those flawed arguments when he mistakenly turns a serious moral disagreement into a debate over preferences.

ARGUMENTS FOR MORAL RELATIVISM

There are two arguments that are often used to defend moral relativism. The first is the argument from cultural and individual differences and the second is the argument from tolerance.

Argument from Cultural and Individual Differences

In this argument, the relativist concludes that there are no objective moral norms because cultures and individuals disagree on moral issues. To defend this premise the relativist typically cites a number of examples, such as cross-cultural and intra-cultural differences over the morality of sexual practices, abortion, war, and capital punishment. In the words of Hadley Arkes, an opponent of moral relativism, “In one society, a widow is burned on the funeral pyre of her husband; in another, she is burned on the beach in Miami. In one society, people complain to the chef about the roast beef; in another, they send back the roast beef and eat the chef.”⁶ There are at least four problems with this argument.

Relativism does not follow from disagreement

The fact that people disagree about something does not mean that there is no truth of the matter. For example, if you and I were to disagree on the question of whether the earth is round, our disagreement would certainly not be proof that the earth has *no* shape. The fact that a skin-head (a type of young neo-Nazi) and I may disagree on the question of whether we should treat people equally and with fairness is certainly not sufficient reason to conclude that equality and fairness are not objective moral truths. Even if individuals and cultures hold no values in common, it does not follow from this that nobody is right or wrong about what is moral truth. That is, there could be a mistaken individual or culture, such as Adolf Hitler and Nazi Germany.

If the mere fact of disagreement were sufficient to conclude that objective norms do not exist, then we would have to believe that there is no objectively correct position on such issues as slavery, genocide, and child molestation, for the slave owner, genocidal maniac, and pedophile have an opinion that differs from the one held by those of us who condemn their actions. In the end, moral disagreement proves nothing.

Disagreement counts against relativism

Suppose, however, that the relativist, despite the logical failure of his case, sticks to his guns and maintains that disagreement over objective norms proves the correctness of relativism. But this will not work. For the relativist has set down a principle – disagreement means there is no truth – that unravels his own case. After all, some of us believe that relativism is a mistaken view. We, in other words, *disagree* with the relativist over the nature of morality. We believe that objective moral norms exist

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whereas the relativist does not. But, according to the relativist's own principle – disagreement means there is no truth – he ought to abandon his opinion that relativism is the correct position. And to make matters worse for the relativist, his principle is a proposition for which there is no universal agreement, and thus on its own grounds must be rejected. As Arkes points out, “My disagreement establishes that the proposition [i.e., disagreement means there is no truth] does not enjoy a universal assent, and by the very terms of the proposition, that should be quite sufficient to determine *its own invalidity*.”⁷

Disagreement is overrated

Although it is true that people and cultures disagree on moral issues, it does not follow from this that they do not share the same principles or that there are not moral norms that are binding on all nations in all times and in all places. Take for example the Salem witch trials. In 1692, in the colony of Massachusetts, nearly three dozen citizens (mostly women) were put to death as punishment for allegedly practicing witchcraft.⁸ We do not execute witches today, but not because our moral principles have changed. Rather, the reason why we don't execute witches is because we do not believe, as some of the 17th-century residents of Salem did, that the practice of witchcraft has a fatal effect upon the community. Even if one believes, as I do, that the trials and executions of these alleged witches were travesties of justice, based on flimsy evidence and trumped-up charges fueled by hysteria,⁹ the principle to which the trials' apologists appealed seems *prima facie* correct: communities and their leaders should support and enforce policies that advance the public good. After all, suppose that we had good evidence that the practice of witchcraft did affect people in the same way that secondhand cigarette smoke affects the nonsmoker. We would alter practices to take this into consideration. We might set up non-witch sections in restaurants and ban the casting of spells on interstate airplane flights. The upshot of all this is that advancing the public good is a principle of just government that we share with the 17th-century residents of Salem, but we have good reason to believe that they were factually wrong about the effect of witchcraft upon the achievement of that good and/or that religious liberty better advances the public good than does religious coercion (even if one may have good reason to believe that the practice of witchcraft is in fact not good).¹⁰

Consider again the issue of abortion. The conventional wisdom is that the moral and legal debate over abortion is a dispute between two factions that hold incommensurable value systems. But the conventional

wisdom is mistaken, for these factions hold many moral principles in common.

First, each side believes that all humans possess certain rights regardless of whether their governments protect these rights. That is why both sides appeal to what each believes is a fundamental right. The pro-life advocate appeals to “life” whereas the abortion-choice advocate appeals to “liberty” (or “choice”). Both believe that a constitutional regime, to be just, must uphold fundamental rights.

Second, each side believes that its position best exemplifies its opponent’s fundamental value. The abortion-choice advocate does not deny that “life” is a value, but argues that his position’s appeal to human liberty is a necessary ingredient by which an individual can pursue the fullest and most complete life possible.

On the other hand, the pro-life advocate does not eschew “liberty.” She believes that all human liberty is at least limited by another human person’s right to life. For example, one has a right to freely pursue any goal one believes is consistent with one’s happiness, such as attending a Los Angeles Lakers basketball game. One has, however, no right to freely pursue this goal at the expense of another’s life or liberty, such as running over pedestrians with one’s car so that one can get to the game on time. And, of course, the pro-life advocate argues that the unborn are persons with a full right to life. And because the act of abortion typically results in the death of the unborn, abortion, with few exceptions, is not morally justified, and for that reason ought to be made illegal.

The abortion-choice advocate does not deny that human persons have a right to life. He just believes that this right to life is not extended to the unborn because they are not full members of the human community. Others, such as Judith Jarvis Thomson, Eileen McDonagh, and David Boonin,¹¹ argue that even if the unborn entity is a full-fledged member of the human community, he or she has no right to use the body of another against that person’s will, because such a usage of another’s body demands of that person great risk and sacrifice that goes beyond any ordinary moral obligation. Hence, because a pregnant woman is not morally obligated to put herself at great risk and to make a significant sacrifice for another, she is morally justified in removing her unborn offspring even if such a removal results in his or her death (see Chapter 7 for a critical assessment of this position). The pro-life advocate does not deny that people have the liberty to make choices that they believe are in their best interests. She just believes that this liberty does not entail the right to choose abortion, for such a choice conflicts with the life, liberty, and interests of another human being (the

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fetus), who is defenseless, weak, and vulnerable, and has a natural claim upon its parents' care, both pre- and postnatally. Thus, when all is said and done, the debate over abortion is not really about conflicting moral systems. After all, imagine if a pro-life politician were to say the following in a campaign speech: "My party's platform affirms a woman's right to terminate her pregnancy if and only if it does not result in the death of her unborn child." Disagreement over such a plank would not be over the morality of killing human persons; it would be over the metaphysical question of whether the unborn human is included in that category.

Absurd consequences follow from moral relativism

First, if there are no objective moral norms that apply to all persons in all times and in all places, then certain moral judgments, such as the following, cannot be universally true: Mother Teresa was morally better than Adolf Hitler; rape is always wrong; and it is wrong to torture babies for fun. But to deny that these judgments are not universally true seems absurd. For there seem to be some moral judgments that are absolutely correct regardless of what cultures or individuals may think.

Second, if the relativist claims that morality is relative to the individual, what happens when individual moralities conflict? For example, suppose that Jeffrey Dahmer's morality permits him to cannibalize his neighbor, but his neighbor disagrees. What would the relativist suggest be done in this case, as, according to this form of relativism, nobody's morality is in principle superior to any other? In addition, if the moral life is no more than a reflection of people's individual tastes, preferences, and orientations, then we cannot tell young people that it is morally wrong to lie, steal, cheat, smoke, abuse drugs, kill their newborns, and drop out of school, even though these behaviors may be consistent with the students' own personal tastes, preferences, and/or orientations.

Third, even if the relativist were to make the more modest claim that morality is not relative to the individual but to the individual's culture, that one is only obligated to follow the dictates of one's society, other problems follow.

1. The cultural relativist's position is self-refuting. What does it mean for a position to be self-refuting? J. P. Moreland explains:

When a statement fails to satisfy itself (i.e., to conform to its own criteria of validity or acceptability), it is self-refuting. . . . Consider some examples. "I cannot say a word in English" is self-refuting when uttered in English. "I do not exist" is self-refuting, for one must exist to utter it. The claim

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“there are no truths” is self-refuting. If it is false, then it is false. But if it is true, then it is false as well, for in that case there would be no truths, including the statement itself.¹²

How is cultural relativism self-refuting? The supporter of cultural relativism maintains that there are no objective and universal moral norms and for that reason everyone ought follow the moral norms of his or her own culture. But the cultural relativist is making an absolute and universal moral claim, namely, that everyone is morally obligated to follow the moral norms of his or her own culture. So, if this moral norm is absolute and universal, then cultural relativism is false. But if this moral norm is neither absolute nor universal, then cultural relativism is still false, for in that case I would not have a moral obligation to follow the moral norms of my culture.

2. Because each of us belongs to a number of different “societies” or “cultures,” which one of them should be followed when they conflict? For example, suppose a woman named “Carla” is a resident of a liberal upscale neighborhood in Hollywood, California, attends a Christian church, and is a partner in a prestigious law firm. In her neighborhood, having an adulterous affair is considered “enlightened” and those who do not pursue such unions are considered repressed prudes. At her church, however, adultery is condemned as sinful, while at her law firm adultery is neither encouraged nor discouraged. Suppose further that Carla chooses to commit adultery in the firm’s back office with a fellow churchgoer, Winston, who resides in a conservative neighborhood in which adultery is condemned. The office, it turns out, is adjacent to the church as well as precisely halfway between Carla’s neighborhood and Winston’s neighborhood. It is not clear which society is morally relevant.¹³

3. There can be no moral progress or moral reformers. If morality is reducible to culture, then there can be no real moral progress. For the only way one can say that a culture is *getting better*, or progressing, is if there are objective moral norms that are not dependent on culture to which a society may draw closer. But if what is morally good is merely what one’s culture says is morally good, then we can only say that cultural norms change, not that the society is progressing or getting better. Yet, it seems, for example, that the abolition of slavery and the establishment of civil rights of African Americans in the United States were instances of moral progress. In addition, there can be no true moral reformers if cultural relativism is true. Moreland writes:

If [cultural] relativism is true, then it is impossible in principle to have a true moral reformer who changes a society’s code and does not merely

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bring out what was already implicit in that code. For moral reformers, by definition, *change* a society's code by arguing that it is somehow morally inadequate. But if [cultural] relativism is true, an act is right if and only if it is in society's code; so the reformer is by definition immoral (since he adopts a set of values outside the society's code and attempts to change that code in keeping with these values). It is odd, to say the least, for someone to hold that every moral reformer who ever lived – Moses, Jesus, Gandhi, Martin Luther King – was immoral by definition. Any moral view which implies that is surely false.¹⁴

Thus, to remain consistent, the cultural relativist must deny that there can be any real moral progress or any real moral reformers. For such judgments presuppose the existence of real, objective, moral norms.

Argument from Tolerance

Many people see relativism as necessary for promoting tolerance, non-judgmentalism, and inclusiveness, for they think if you believe your moral position is correct and others' incorrect you are close-minded and intolerant. They usually base this premise on the well-known differences of opinion on morality between cultures and individuals. So, the moral relativist embraces the view that one should not judge other cultures and individuals, for to do so would be intolerant. There are at least four problems with this argument, all of which maintain that tolerance (rightly understood) and relativism are actually *incompatible* with each other.

Tolerance supports objective morality, not relativism

Ironically, the call to tolerance by relativists presupposes the existence of at least one nonrelative, universal, and objective norm: tolerance. Bioethicist Tom Beauchamp explains:

If we interpret normative relativism as requiring tolerance of other views, the whole theory is imperiled by inconsistency. The proposition that we ought to tolerate the views of others, or that it is right not to interfere with others, is precluded by the very strictures of the theory. Such a proposition bears all the marks of a non-relative account of moral rightness, one based on, but not reducible to, the cross-cultural findings of anthropologists. . . . But if this moral principle [of tolerance] is recognized as valid, it can of course be employed as an instrument for criticizing such cultural practices as the denial of human rights to minorities and such beliefs as that of racial superiority. A moral commitment to tolerance of other practices and beliefs thus leads inexorably to the abandonment of normative relativism.¹⁵