

8b

Comments on Gert: Gert's common morality: old-fashioned or untimely?

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According to Gregor McLennan, “We are all pluralists now”. During the last decades a “glacial shift away from monism, towards pluralism” has occurred. “Where once the onus was on pluralists to bounce off, and try to dismantle, the grand monistic edifices, today any credible ‘big picture’, will have to be very careful not to appear to obliterate or devalue perceived plurality” (1995, p. 99). Late modernity or postmodernity is characterized by pluralism in science and society, in theory and in practice. We are on the road from unity to diversity, to difference, decentring, dissemination, deconstruction and discontinuity, to mention the main terms that circulate to indicate the ongoing process of pluralization.¹

Ethics too has taken the road from unity to diversity, albeit with some reluctance it seems to me. An early example of a strong form of pluralism can be found in Christopher Stone's *Earth and Other Ethics: The Case for Moral Pluralism* (1987). According to Stone, the problem with contemporary ethical theories is that they are still “aiming to produce, and to defend against all rivals, a single coherent and complete set of principles capable of governing all moral quandaries” (p. 116). This monism becomes problematic as soon as all kinds of exotic entities enter the moral arena, such as future generations, the dead, embryos, animals, the spatially remote, tribes, trees, robots, mountains and art works. As a result of their emergence on the moral scene the assumptions that unify ordinary morals are called into question.

A less extreme and more moderate pluralism can be found in Beauchamp and Childress' well-know *Principles of Biomedical Ethics* (1994). They call their theory, which finds its source in the common morality and uses principles as their structural basis, a pluralistic theory. The formulation of their famous four principles is inspired by different and even diverging theories. This is rather seen as an advantage than as a disadvantage. “We stand to learn from all of these theories. Where one theory is weak in accounting for some part of the moral life, another is often strong. Although each type of theory clashes at some point with deep moral convictions, each also articulates norms that we are reluctant to relinquish ... We reject the assumption that one must defend a single type of theory that is solely principle-based, virtue-based, rights-based, case-based, and so forth. In moral reasoning we often blend appeals to principles, rules, rights, virtues, passions, analogies, paradigms, parables, and interpretations. To assign priority to one of these factors as the key ingredient is a dubious project” (Beauchamp and Childress 1994, p. 111).

The new intellectual situation, characterized by a marked anti-foundationalism in epistemology as well as in ethics, has evoked new questions and doubts. Doesn't pluralism itself constitute just another type of doctrine, a new grand narrative and a

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new monism – with a pluralist face? Will a politics of difference, which indiscriminately and without any exception gives equal attention to every voice that makes itself heard, not gradually blur into a politics of indifference? Is it possible to impose limits on the proliferation of differences, behind which a viable pluralism changes into an infertile relativism, an unsound eclecticism or a dangerous nihilism?

In this intellectual climate Bernard Gert, together with Charles Culver and Danner Clouser, has argued for ‘A Return to Fundamentals’, as the subtitle of their book on Bioethics from 1997 says. In 1990 Clouser and Gert launched a fierce attack on ‘principlism’, a term they use to designate all theories composed of a plural body of potentially conflicting *prima facie* principles. These theories, including the theory of Beauchamp and Childress, “fail to provide a unified theory of justification or a general theory that ties the principles together as a systematic, coherent, and comprehensive body of guidelines, with the consequence that the alleged action-guides are ad hoc constructions lacking systematic order” (1994, p. 100).

In the present intellectual climate, Gert’s plea for a return to fundamentals and to a unified theory sounds surprising and absolutely refreshing. The question remains, however, whether this form of neo-foundationalism (as it is sometimes called) is untimely (in the sense of Nietzsche’s *Unzeitgemässe Betrachtungen*) or just old-fashioned?

Gert maintains that there is only one morality, common morality, and that it is possible to provide an explicit description of this common morality that is clear, coherent and comprehensive. This description of the moral system can be achieved by transforming the mostly implicit ‘know how’ of competent moral agents into explicit ‘know that’, analogous to the way linguists provide an explicit description of the grammatical system by systematizing the utterances of competent speakers. After describing the moral system, Gert goes on to explain and justify its nature by relating it to the universal features of human nature such as fallibility, vulnerability and rationality.

Although Gert’s approach certainly provides us with many interesting and useful insights (see Matthias Kettner 2003), it is in my view not without its difficulties and problems. Even if we assume that there is only one moral reality, one moral universe, it is highly unlikely that there is only one unique description of this universe possible. I agree with Richard Rorty that “there are many descriptions of the world and of ourselves possible, and the most important distinction is that between those descriptions which are less and those which are more useful with respect to a specific purpose” (1999, p. 27). Or to quote the famous German philosopher Wilhelm Dilthey: “The pure light of truth can be seen by us only in variously broken rays” (Dilthey 1931, p. 222). No single description is capable of capturing reality in its full versatility, but is one-sided by necessity. In my opinion, this also applies to Gert’s description.

Overall, the moral theory that is offered by Gert can be understood as a form of rule consequentialism. What is or is not morally acceptable is largely dependent on moral rules and justifiable violations of them, whilst the criteria for moral acceptability are given in terms of the avoidance of harm. Thus the theory is a rule-based one with the locus of moral value centring on the avoidance of harm. One significant feature of the theory that distinguishes it from other consequentialist theories is the importance of publicity in cases where a violation of a moral rule is being considered.

Gert distinguishes ten moral rules, neatly divided into two distinct categories, the first five rules prohibiting *directly* causing all of the basic harms (death, pain,

disability, deprivation of freedom and of pleasure) and the second five prohibiting those kinds of actions that *indirectly* cause these same harms (do not deceive, keep your promises, do not cheat, obey the law and do your duty). As Beauchamp and Childress (1994) correctly state: “Clouser and Gert rely almost exclusively on nonmaleficence in their ethical theory” (p. 318).

To me, it seems highly implausible that the exploration and explication of the rich moral life could result in the conclusion that the agreement that exists among our moral judgments “is based on agreement about the nature of morality, that it is a public system with the goal of reducing the amount of harm suffered by those protected by it”. That we all agree about the nature of morality seems questionable and that we all agree that its goal is to reduce the amount of harm suffered seems even more difficult.

The one-sidedness of Gert’s account of common morality is evident from the fact that it can do no more justice to considered moral judgments than all other consequentialist theories can. The most important of these judgments are judgments about distributive justice and judgments about respect for autonomy. I believe there is a connection here: the absence of notions such as justice, fairness and equality in the final analysis points to a disregard for the concept of autonomy or dignity of individual men and women. I will not go into this connection but restrict myself to questions of distributive justice.

I agree with Michael Walzer that a careful analysis of our moral practices shows that there exists a plurality of distributive principles relative to different social goods or sets of goods, like free exchange, desert and need.

That Gert too cannot avoid using such principles, albeit implicitly, comes to light if we, for instance, examine his interpretation of job discrimination against qualified people of a particular race, religion or ethnic background from his latest book on *Common Morality* (forthcoming). According to Gert this kind of discrimination counts as a violation of the rule ‘Do not deprive of freedom’. However, as Gert notes, “it does not normally count as depriving a person of an opportunity if another more qualified person is hired for the job”. But this judgment is only valid on the basis of a hidden assumption, in the form of the following criterion of fairness or distributive justice: one must give equal consideration to every qualified candidate, and one must take into account only relevant qualities.²

That Gert’s interpretation of job discrimination is really problematic also comes to the fore if we compare this kind of negative discrimination with positive discrimination. In the first case men and women have been discriminated against in the distribution of jobs, because of their membership of an ethnic or religious group, and not for any reason having to do with their individual qualifications. In the second case it is argued, for the sake of fairness and redress, we should now discriminate in their favour, even set aside a certain number of offices exclusively for them. Now, Gert lacks the conceptual means to distinguish between positive and negative discrimination because the amount of harm will be the same in both cases. And this is a problem because this distinction is reflected in our moral judgments: whereas (nearly) everybody will reject negative discrimination as totally unjustified, the opinion on positive discrimination stands divided, which means that this policy must be considered (in Gert’s own words) ‘weakly justified’.³

To close my comment, I will briefly go into the notion of ‘sustainable development’, which increasingly can be found in mission statements and professional codes, due to the recent emergence of ‘corporate social responsibility’ (or ‘corporate citizenship’). According to the well-known definition of sustainable

development from the Brundtland-report, “sustainable development is development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs”. In fact, this definition combines justice *within* the current generation with justice *between* the current generation and future generations. In other words, it combines intra-generational justice with inter-generational justice.

The definition of sustainable development makes reference to ‘needs’. In Walzer’s theory need is the central criterion of distribution in the sphere of security and welfare. Walzer assumes “that every political community must attend to the needs of its members as they collectively understand those needs; that the goods that are distributed must be distributed in proportion to need; and that the distribution must recognize and uphold the underlying equality of membership” (1983, p. 84). According to Walzer, every distribution in proportion to need is inevitably always also a redistribution, the strongest shoulders carrying the heaviest load. The problem with Gert’s account of morality is that all acts of redistribution as well as all acts of redress, due to their ‘idealistic’ character, appear as supererogatory actions, that is, as actions that no one can expect anyone to perform. This is, I believe, what makes his account too minimalist to function as a reliable public guide for the behaviour of all moral agents, business and professionals included.

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¹ In philosophy, the culminating point of the road from unity to diversity was reached in the work of Jean-François Lyotard, who with much brouhaha announced the end of all grand stories (‘meta-écrits’). Instead of the one grand narrative there is a multitude of narratives, language games, discourse genres or vocabularies.

² There are of course exceptions to this general rule: “For many offices, only minimal qualification is required; a large number of applicants can do the work perfectly well, and no additional training would enable them to do it better. Here fairness seems to require that the offices be distributed among qualified candidates on ‘first come, first served’ basis (or through a lottery)” (Walzer 1983, p. 135-136).

³ Another example concerns Gert's interpretation of the rule 'Do not cheat'. "Successful cheating results in the cheater gaining some advantage over others participating in that activity". It is not at all clear how this would lead to more harm than sheer bad luck or a strong opponent who can easily win without having to cheat. In short, this is a moral violation only if some notion of fairness is used.