The Implications of A “Common Morality”

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 Contemporary medical ethics is a field fraught with disagreements over end of life care and the struggles associated with deciding when it is acceptable to euthanize a person or allow somebody to die. This situation has been brought upon the medical community very rapidly, with advances in medical technology and medications over just the past few decades providing previously unheard of options for patients. Due to the rapid onset of these new medical choices, there is yet to be a clear consensus on practices such as euthanasia and physician assisted suicide. Contributing to the difficulty in establishing a coherent and universal set of guidelines for physicians and patients to follow are the numerous and vastly different religious beliefs that all members of the healthcare community bring to the table. The dawning of a truly globalized world, with the ability for people to move across borders and relocate to culturally diverse places further complicates the matter. This current, post-modern world brings about an amalgamation of hundreds of different religious and secular ethical views into the healthcare industry, making it nigh near impossible for end of life decisions to be made without upsetting others.

 Due to the plethora of competing ideologies it certainly seems that it will not be possible for hospitals or governments to adopt rigid guidelines based solely on one set of religious or secular codes of ethics. Rather, it seems that the best solution may be to produce a type of moral *framework* (not moral guideline or proscription) that allows people from different backgrounds to come together and make decisions, in light of their differences. In other words, instead of creating a system which tells people which actions are moral or immoral, a system which allows people to come together and decide on a case by case basis which actions are moral or immoral may be the best option.

 H. Tristam Engelhardt has proposed one such framework. His theory of “common morality” seeks to allow “moral strangers,” or people with different ethical perspectives, to make decisions together. This concept will be explained and explored in greater depth below using the Jain practice of Sallekhana as a test case to further elucidate the implications of Engelhardt’s theory. Engelhardt’s common morality represents a moral framework in which disagreeing religions can work together to produce pragmatic solutions in bioethical problems. This theory offers an ideal solution to the problem faced in a post-modern world but may ultimately fail for *some* people due to the fact that it will allow some actions to occur that may be viewed as immoral by others.

 For several thousand years (potentially longer) human beings relied almost exclusively on religious/spiritual beliefs and teachings in order to determine moral from immoral actions. Despite this long history and the maturation of many religions during this time, there was still no consensus on universal morals. Due to this, many philosophers (particularly during the Enlightenment) believed that religion was the problem with humanity and that it was possible to construct moral guidelines based solely on reason. There were then many attempts over the next several hundred years to create ethical systems using only *a priori* knowledge (e.g. Kantianism). This approach has been accepted by many people, especially in an increasingly secular world. However, Engelhardt proposes that all of these systems based on reason alone all fail in some respect, as well.

 In the case of hypothetical choice theories, the philosopher posits that an indifferent, disinterested rational decision maker would act in a certain way when confronted with a moral decision. Following their lead, then, will show people how to act morally. The problem with this, as Engelhardt points out, is that a completely indifferent person would have no moral sense at all, leaving them unable to genuinely make a decision. On the other hand, if this observer does possess a set of morals, then they are already inherently biased from the beginning. Thus, to Engelhardt, “the hypothetical decision-maker or ideal observer is either useless or partisan.”[[1]](#endnote-1) Similarly, in the case of hypothetical contractor theories, “one must impute to the contractors some thin theory of the good, some moral sense, some canonical moral intuitions, or one will not be able to show why one health care system is morally preferable choice over others.”[[2]](#endnote-2) What Engelhardt’s arguments come down to is the belief that morality cannot come out of reason without putting morality into the system in the first place. In other words, it is impossible to construct morality *a priori*. Because of this, many rational, hypothetical theories do not work.

 In addition to these shortcomings, Kantianism and utilitarianism- two widely accepted and foundational theories in western morality- fall prey to errors as well. In Kant’s case, he attempts to ground morality in the “character of moral reasoning”.[[3]](#endnote-3) By this, it means that Kant posits that morality can be determined by disallowing actions that would involve a contradiction of the will. However, Engelhardt takes exception to this, believing that “what appears to Kant as a contradiction in will is a contradiction only within a particular moral perspective. The contradiction disappears once the moral perspective is changed.”[[4]](#endnote-4) Again, for Mill and his utilitarianism, he falls into the same trap. By deciding morality based on the effects of consequences, he presupposes which consequences are morally desirable or reprehensible. Thus, one is not able to genuinely discover morality for “one cannot appeal to consequences in order to determine how to rank consequences.”[[5]](#endnote-5) Through these examples Engelhardt shows that the Enlightenment’s goal of creating a content rich moral system based on reason and rationality is not possible.

 This conclusion leaves Engelhardt in a precarious place; his only remaining options seem to be complete moral relativism or nihilism. Since there seems to be no way of rationally creating a coherent, content-full morality, there can never be any widespread ethical agreements reached between people of differing backgrounds. Thus, it seems that the secularist has failed in seeking to establish moral precedents that supersede religious ones. Therefore, without a meta-ethical foundation underscoring contemporary secular and religious ethics, one must, according to Engelhardt, come to the conclusion that all actions are either morally relative to the ethical context (e.g. Christian, Kantian, Jain, Utilitarian) in which they take place *or* morality is nihilistic and there is no real way to delineate between a moral or immoral action.

 All hope is not lost, though, for Engelhardt believes that it is still possible for moral strangers to come together and make ethical decisions in light of the fact that there is no universal morality. This does not entail creating a new system in which moral actions are defined and ethical guidelines are prescribed, however, for Engelhardt has already attempted to prove that such attempts are futile. As opposed to this, Engelhardt proposes that “one must look at the very notion of resolving moral controversies: ethics as the commitment to resolving controversies between moral strangers without primary recourse to forces but with common moral authority.”[[6]](#endnote-6) That is, being that two persons disagree on matters of religion (and, therefore, morality) and/or reason (as in they lack a shared belief on the ability to break down moral problems to logical problems) then the only way for these disagreeing parties to make a decision is for them to take part in peaceful negotiations.[[7]](#endnote-7) What then will these negotiations be based on? For Engelhardt, it is absolutely imperative that people adopt mutual respect and “the non-use of others without their consent” when participating in negotiation.[[8]](#endnote-8) While it may seem that these rules appeal to a moral authority or are imbued with a sense of moral judgment, Engelhardt is able to avoid this problem (the same problem with any content-full moralities) by basing these rules on the definition and purpose of conflict resolution. In other words, in order for people to negotiate it is necessary for the parties to respect each other and not force the other’s consent, otherwise, this would not be a negotiation at all. Therefore, Engelhardt is able to smuggle in these foundational “values” because they are *not* based on a moral framework but rather the inherent definition of the type of solution he is proposing. He further describes this common morality as being a type of moral grammar or language. By this, Engelhardt means to say that his common morality provides a framework within which people can discuss ethical issues while acknowledging that they are not necessarily appealing to or referring to universal moral values. He draws the comparison between this and the non-necessity for one to hold that empirical science refers (that is, that the claims made by science may be viewed as pragmatic and not necessarily referential to the world’s ontological status).[[9]](#endnote-9) This type of *framework*, as opposed to a theory, is the solution that Engelhardt sees to the problem faced in the postmodern world.

 What exactly does this proposal entail, though? An ethical disagreement that would require the implementation of this common morality would, naturally, have to arise between two different people or parties that do not share a common moral background. In Engelhardt’s words, this is what constitutes a moral controversy. As has been alluded to earlier, this type of relationship between people causes them to be *moral strangers*, in the sense that they do not agree on [every and all] foundational ethical beliefs, being that they come from different backgrounds (e.g. a Tibetan Buddhist and a Muslim). One of the most important aspects of this entire proposal for ethical problem solving rests on the necessity of the two parties to be willing to come together and work within this framework of common morality. This, referred to by Engelhardt as the *will to morality,* is what allows people to come together and set aside their differences in order to reach an agreement of some kind. In addition, it is this will- the belief that the world has moral meaning- that allows for Engelhardt to avoid nihilism in his proposal.[[10]](#endnote-10) This will, so central to the framework of common morality itself and the basic guidelines it sets forth, also allows Engelhardt to sidestep the problem of complete moral relativism by providing a groundwork (not based in a content-rich morality!) that people must follow in order to make decisions (i.e. the non-use of others without their consent precludes moral relativism to an extent). However, if a person or a group of people decide not to follow these rules then they are considered to be moral outlaws. So, in theory, Engelhardt’s common morality envisions that moral strangers can come together, united by their shared will to morality, and address moral controversies, thereby providing solutions to ethical problems.

 How exactly would this look in practice, though? In order to effectively test Engelhardt’s proposed theory, the controversial practice of fasting to death in the Jain tradition, termed Sallekhana, will be examined and put through Engelhardt’s framework. In order to adequately proceed with this test case, relevant background on the Jain tradition and Sallekhana will be examined before applying it to the common morality.

 Jainism is a religion founded and based in India over 2500 years ago. At the foundation of its traditional belief system is the distinction between sentient, *jiva*, and non-sentient, *ajiva*, beings.[[11]](#endnote-11) All living things are not only composed of jiva, but ajiva also. In the Jain tradition, this association between jiva and ajiva has persisted since the beginning of time, with living beings having ajiva adjoined to their own personal jiva.[[12]](#endnote-12) This association is very important for human beings as karma, as understood by Jains, is attributed to the amount of ajiva associated with one’s jiva. It is therefore foundational to the tradition the belief that human beings can in fact disassociate from their ajiva by overcoming the limitations imposed on them because of their physical existence and purify their jiva, thus reaching a level of immortality. Until completely cleansed of ajiva, though, jivas will continue to be reborn into different life forms. The ultimate goal, of course, is to rid oneself of their karma, thereby freeing their jiva to eternal nothingness.

 This is not an easy task to accomplish however, for “there is only one way in which the jiva can be set free of this karmic bondage and resultant physical rebirth, and that way involves the ascetic life.”[[13]](#endnote-13) For Jain monks and nuns, their jivas are finally in a state in which they are close to being completely free of karma and all connections to ajiva. As such, the monastic life for a Jain is a very arduous one. One of the most important tenets followed by Jains at this stage is that of ahimsa, or non-harm.[[14]](#endnote-14) This practice is seen as one of the most important practices of the Jain faith. The notion of ahimsa encompasses much more than merely avoiding physically harming other beings, though, it also includes separation from “the entire mechanism of aggression, possession, and consumption that characterizes life in this world.”[[15]](#endnote-15) Thus, Jains will go to extreme lengths, such as wearing masks, gently sweeping their seats, and closely examining their food before eating it so as not to do any unintentional harm to any living being- no matter how small it may be.

 Finally, after living a life full of dedication to the monastic order, Jains have one final opportunity to cleanse themselves of karma. This final rite is known as sallekhana. Sallekhana is a voluntary fast that one undertakes at the end of their life and continues until their death. Due to the importance of ahimsa, “the fast might commence when one is no longer able to abide by monastic rules governing nonviolent behavior because of the debility of old age or infirmity.”[[16]](#endnote-16) In other words, sallekhana is undertaken as a way to avoid harm to other beings- it is a peaceful way of initiating one’s own impending death. This ritual may only be undertaken under very specific circumstances, however. One must be either terminally ill or close to death due to old age and they must be granted permission from their monastic community before they are allowed to begin sallekhana.[[17]](#endnote-17) Once permission is obtained, one begins the fast slowly by first cutting out all solid foods and then removing liquids from the diet until only warm water is consumed. Finally, even water will be given up, positioning the Jain for a peaceful death.[[18]](#endnote-18) In practicing this ancient ritual Jains accomplish two main things: 1) they do no harm to other beings by not eating anything 2) it helps to purify the soul and remove karma, thereby helping to release the jiva.[[19]](#endnote-19) Therefore, sallekhana is an integral part of the Jain tradition. Without it, one’s chances of freeing themselves completely from karma diminish significantly.

 This, in brief, is the practice of sallekhana and an illustration of why it is so important to the Jain faith. It should be noted, though, that Jainism is a very old and rich religion, with many more nuances and variations in belief amongst practitioners than has been explained above. However, this should serve as an appropriate introduction to the topic in order to explore how Engelhardt’s common morality would react to the practice of sallekhana.

 *Theoretical Scenario: In many cases people outside the Jain tradition view the act of sallekhana as an act of suicide and, therefore, immoral. In this situation, the government believes sallekhana to be an act of suicide and wishes to make the practice illegal. The Jains, obviously, do not believe that it is a form of suicide and wish for the practice to remain legal in order for them to be able to practice it.*

 *What type of agreement would the Jains and the government reach if they used Engelhardt’s common morality?*

 First off, it should be recognized that the Jains and the government which they live under are moral strangers facing a moral controversy. However, both groups have the will to morality and, thus, are seeking to work together to come to some sort of agreement on the issue. Throughout their discussions they will neither use [threat of] force nor violate the consent of the other group by failing to uphold the agreement reached between them. While the issue at hand will decide the legality of the practice, this discussion, in effect, is centered on the morality of the act itself. By equating sallekhana with suicide (a morally reprehensible action in the eyes of most people), the government is seeking to prohibit immoral actions (i.e. suicide or the helping of one to commit suicide). Therefore, while the discussion between the Jains and the government is legal in appearance, it is still moral in nature and, thus, applicable to Engelhardt’s theory.

 The government, wishing to outlaw sallekhana and consider it a form of suicide, allows the Jains to present their arguments first to see if they are able to persuade the government. In this case, the Jains would most likely seek to first define sallekhana and then proceed to argue why it is not a form of suicide and, as such, should remain a legal practice under the government’s jurisdiction.

 One compelling argument that may be offered up to the government is one articulated by Justice T. K. Tukol. Tukol presents a compelling argument for why the Jain practice of sallekhana should not be considered a form of suicide without appealing to any type of moral authority or set of ethics. In Tukol’s opinion, suicide is the result of a person carrying some type of psychological or emotional stress that becomes too much for them to handle, ultimately resulting in the taking of their own life.[[20]](#endnote-20) He further asserts that the person commits suicide in order to escape something present in their life.[[21]](#endnote-21) They are only able to do this, though, because their mind has fallen away from religion and spirituality. Furthermore, the act itself is often violent and sudden and carried out secretly, causing serious emotional distress for loved ones left behind.[[22]](#endnote-22)

            Having defined suicide, Tukol proceeds to compare this definition to the practice of sallekhana and how it maps on to the colloquial idea of suicide. As he asserts, sallekhana does not fit any of the previous criteria for qualifying as a form of suicide. He bases this comparison on five points: intentions, situations, mental condition, means, and consequences.[[23]](#endnote-23) In brief, a person undertaking the vow of sallekhana does so for purely spiritual reasons, specifically, in order to escape the cycle of birth and rebirth.[[24]](#endnote-24) The circumstances in which this vow is taken are very specific, not just anybody can carry out this ritual; a person must meet specific criteria before being allowed to undertake the journey.[[25]](#endnote-25) As a result, the mental condition of people undergoing sallekhana is one of freedom and peace.[[26]](#endnote-26) This, along with the peaceful and nonviolent means of fasting, combines to produce an experience of death that is not in any way sorrowful or emotionally draining.[[27]](#endnote-27)

 Now, suppose that the Jains offer up this argument to the government, saying that it is for these reasons that sallekhana is not suicide and should, therefore, be legally allowable. Swayed by the compelling argument presented by the Jains, the government in this situation now respects the vast difference in nature between sallekhana and suicide. As such, the government decides that it is morally permissible for a person to perform the ritual of sallekhana in its proper context. Both sides of the agreement benefit; the Jains are allowed to practice their religion freely while the government continues to promote a free and moral society.

 In this case, it seems that Engelhardt’s common morality prevails, allowing a secular group to have a moral engagement with a religious group and come to a consensus over a dispute. What happens if the government does not accept the Jains arguments, though? It is very well possible that the government in question refutes the Jain’s arguments, believing that sallekhana is, in fact, a form of suicide and that it should be legally prohibited. Unable to reach an agreement, then, what will happen if the parties continue to work in Engelhardt’s framework? The government cannot simply say that they disagree with the practice and then punish the people that perform it, for this would be resorting to force, making the government a moral outlaw. The only option, it seems, is that the government has to allow the practice of sallekhana to proceed unabated. As Engelhardt says, when a situation such as this arises, the government must acknowledge that the Jains have a moral right to practice sallekhana, even if they believe that it is immoral.[[28]](#endnote-28) Anything other than allowance in this case would result in a break from the common morality. In this instance (the government still believes that sallekhana is immoral), the Jains still retain their right to practice their religion but the government is forced to cede some of its sovereignty in allowing this religious group to continue a practice that it finds immoral.

 The application of sallekhana to Engelhardt’s common morality allows one to draw out the deeper implications of this proposed moral framework. It seems reasonable to allow the practice of sallekhana to be continued as it is very peaceful and nonviolent but would Engelhardt’s theory be able to adjust for a different type of religious self-killing? If, instead of fasting, a non-painful and fast acting poison were injected into the person would it still be acceptable? Or, what if the person nearing their death was allowed to take their life in any way they desired? The more violent the death becomes, the more egregious it seems to allow it to take place. However, if the practice is done purely of free will, is there any way that Engelhardt’s theory can stop this? It seems that this may be a potential breakdown in Engelhardt’s theory. Namely, the inability to prevent individuals from committing certain acts to themselves that do not affect other people may be unpreventable in the common morality framework. Now, it should be clarified that the common morality is able to distinguish and stop many actions even if the person committing them is doing so out of their free will, and stopping them would be seen as coercive. For example, a person may decide to drink and drive and see no problem with it. Prohibiting this type of behavior would be forcing somebody to do (or in this case, not do) something that they want to. However, because that person’s individual actions (drinking and driving) affect other people, it is not up to them alone to decide what they do. Their actions force certain consequences on the rest of society, allowing Engelhardt’s theory to “force” a person not to drink and drive against their will.

 With that being said, if an individual wishes to commit suicide, utilize physician-assisted suicide (PSA), or practice sallekhana, can the common morality adequately differentiate between these practices? In the latter two, it seems that they would be allowable, given the fact that PSA is often administered at the end of one’s life and sallekhana is only performed when one is going to die soon anyways. But what happens if sallekhana is allowable for anybody wishing to remove karma from their jiva, regardless of their age or health? What happens when a young, very sick, but not terminal, patient requests PSA? Under Engelhardt’s guidelines, it doesn’t seem that anything has really changed, meaning that these requests would still permitted to proceed unabated. Is this a problem? Many would argue that this is a problem with the common morality and that it is too permissive. However, that may be the point. For those people that do want to commit actions that society would normally deem as immoral, Engelhardt’s theory may provide a framework in which their actions are actually moral, or at the least, socially permissible. This may be very hard to accept but, again, as Engelhardt says, in this secular humanist (lower case) society, one may have to live with the opinion that what another person does is immoral while acknowledging that it is still their right to do as they please.

 So, is Engelhardt’s theory an ideal solution to addressing moral controversies? Maybe yes, maybe no. For the people willing to accept that other people have different values and senses of morality and that they have the right (to an extent) to practice these values, the common morality will work. For people who cannot stand by while another person does something that they deem immoral, without allowing the concession that their own definition of morality might not be universal, Engelhardt’s theory will clearly fail. Thus, the common morality does not solve every moral problem or offer step-by-step guides to reach any ethical solution, but it does what it aims for- provide a framework for moral strangers to come and work together.

1. Engelhardt, H. Tristram. *Bioethics and Secular Humanism: The Search for a Common Morality*. Philadelphia: Trinity Press International, 1991. 106 [↑](#endnote-ref-1)
2. Ibid [↑](#endnote-ref-2)
3. Ibid 107 [↑](#endnote-ref-3)
4. Ibid [↑](#endnote-ref-4)
5. Ibid 108 [↑](#endnote-ref-5)
6. Ibid 119 [↑](#endnote-ref-6)
7. Ibid [↑](#endnote-ref-7)
8. Ibid [↑](#endnote-ref-8)
9. Ibid 121 [↑](#endnote-ref-9)
10. Ibid 120 [↑](#endnote-ref-10)
11. Hinnells, John R., Kendal W. Folkert, and John E. Cort. *The New Penguin Handbook of Living Religions*. London: Penguin Books, 1998. 346 [↑](#endnote-ref-11)
12. Ibid 347 [↑](#endnote-ref-12)
13. Ibid [↑](#endnote-ref-13)
14. Ibid 349 [↑](#endnote-ref-14)
15. Ibid 350 [↑](#endnote-ref-15)
16. Bregman, Lucy, and Christopher Key Chapel. *Religion, Death, and Dying*. Santa Barbara, CA: Praeger, 2009. 196 [↑](#endnote-ref-16)
17. Ibid 197 [↑](#endnote-ref-17)
18. Ibid 198 [↑](#endnote-ref-18)
19. Ibid 197 [↑](#endnote-ref-19)
20. Tukol, T. K. *Sallekhanā Is Not Suicide*. Ahmedabad: L.D. Institute of Indology, 1976. 75 [↑](#endnote-ref-20)
21. Ibid [↑](#endnote-ref-21)
22. Ibid [↑](#endnote-ref-22)
23. Ibid 87 [↑](#endnote-ref-23)
24. Ibid [↑](#endnote-ref-24)
25. Ibid [↑](#endnote-ref-25)
26. Ibid 88 [↑](#endnote-ref-26)
27. Ibid 88-89 [↑](#endnote-ref-27)
28. Engelhardt, 124 [↑](#endnote-ref-28)