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Final Essay

In this essay, I intend to examine the viability of H. Tristram Engelhardt, Jr.’s proposed methods for resolving conflict through the use of ‘common morality’ by applying it to a realistic ethical conflict between two religions. The conflict in question will be the practice of Sallekhana as viewed by practitioners of Jainism and Catholicism, respectively. While Engelhardt himself ultimately dismisses this method as unrealistic, I intend to demonstrate its potential value as a means of resolving conflicts between groups that may otherwise be unable to resolve their differences and ultimately resort to violence.

In my opinion, the practical application of 'common morality' would rely upon the two (or more) parties in question coming to agreement on two key points. First, the recognition by all involved that reality is shared and is the same for everyone. While there may be some contention to the fine points of this assertion, the relevant parties would have to be willing to concede that accepting the notion of shared reality is, at least, a pragmatic middle-ground on which debate would rely.

Second, the notion that human life has some value, whether intrinsic or granted by a higher power. Engelhardt also suggests that common morality must hinge on the consent of who would be affected by the decision, the ‘will to morality’, which would also include the moral language associated with it. However, it seems unlikely that a moral decision which could be ignored by those who do not agree with the conclusion would be very practical in application. Engelhardt addresses the problem of 'moral outlaws', people who would act in opposition to the moral decision if they felt it violated their right to consent.

This leads to a potential issue with this method of resolving conflict. Since it relies so heavily on consent and autonomy of the individual, it would be very difficult to enforce the moral decision without violating the same rights that the method attempts to protect. As Engelhardt puts it "if one cannot discover who is in authority or a moral authority by appeal to God or reason, then authority will need to be derived from the consent of those participating in the endeavor". Another issue with this method is the potential for the moral decisions to be made based on the persuasiveness, power and circumstance of the speaker(s), not the validity of their arguments or their benefit to greater society, thus making the moral decisions arrived at potentially too relativistic to be useful.

With these potential issues in mind, let us use the practice of Sallekhana as a means of exploring the viability of common morality in a real-life conflict. While individual practitioners of Jainism may oppose Sallekhana and individual practitioners of Catholicism may embrace it, I would like to use the hypothetical example of a group of Jaina attempting to make it moral in opposition to a group of Catholics attempting to make it immoral. In this hypothetical, both groups have made their desire to arrive at a compromise and their will to morality known.

Let’s begin with the argument in favor of Sallekhana. An argument in favor of Sallekhana using Catholic language and texts might refer to Kelly's distinctions between dying and letting die and withdrawing treatment.Kelly differentiates between killing and allowing to die, categorizing the withholding of life-sustaining treatment as the latter. “It is not always morally right” he writes, but “if the means in question are ‘morally extraordinary’, the act (the decision not to use the means) is generally accepted as moral”.

Those defending Sallekhana might argue that, in the case of Sallekhana, the practitioner is choosing to withhold treatment from themselves. By Jaina values, the means of sustaining life may be considered morally extraordinary if they no longer contribute to the enlightenment of the person in question. Which is to say, if the person in question could no longer “abide by monastic rules concerning nonviolent behavior” (Tukol, p. 196) they could be accruing negative karma without becoming any closer to enlightenment by living, which could be argued to be morally extraordinary according to Jaina values. Since the circumstances are morally extraordinary by Jaina values, it would be morally permissible to withhold treatment by Catholic values as described by Kelly.

Additionally, karma is, to some degree, the determinant of the quality of one's afterlife and the primary guideline for whether act is good or bad in Jainism, one might argue that karma could be discussed as morally equivalent to God’s judgement in Catholicism for the sake of finding common moral ground. Given that, one might attempt to prove that creating negative karma is the equivalent of attaining unfavorable judgement from God.

However, for that to follow, one must first demonstrate that Sallekhana would not result in negative karma. Tsomo mentions the Buddhist perspective on suicide as being generally inadmissible, but counters his own arguments with certain circumstance in which it is, if not fully, at least partially acceptable. If motivated “by a desire for nonexistence” the act is regarded as a nonvirtuous act of suicide” but “if the action is taken for the benefit of others and is motivated by the pure thought of compassion, even though negative karma is accrued, the ultimate consequences of the action may be justifiable, even fortunate” (143).

An argument to counter the idea of negative karma comes from Tukol, who describes Sallekhana as a means of becoming “liberated from the bondage of karma" (87). Tukol argues that, whereas suicide is “brought about by objectionable means because harm is caused to one’s own body and to the interests or feelings of the relatives or friends” (89), Sallekhana allows for a nonviolent death, in which one should “face death in such a way as to prevent influx of new karmas even at the last moment of his life” (7).

Having used the moral language of both groups and having attempted to bridge values which are relevant to both perspectives, I hope that I’ve presented here a persuasive enough argument that one could imagine a hypothetical situation in which the groups would agree to make Sallekhana morally acceptable. Perhaps the Catholic group would chose to concede to the Jaina perspective and make Sallekhana morally acceptable based on the arguments above. I doubt this, however, as I think there are plenty of arguments to the contrary that would lead to the Catholic group effectively arguing against Sallekhana.

The first of those arguments that I’d like to outline concerns the principle of double effect, hereafter referred to as the PDE, as described by Kelly. The PDE is a principle intended to address the ethical conundrums that may arise when one is faced with a choice that may result in consequences which are both "good and may rightly be intended" and "bad, and may not rightly be intended" (104). The PDE lays out four conditions which must be passed to make an action permissible.

 First, the act itself, "considered apart from its circumstances and consequences, must not be morally wrong" (105). Second, the bad effect may not cause the good effect. Third, the agent must not intend the bad effect (as an end to be sought). Finally, the bad effect must not outweigh the good effect. Our hypothetical Catholic group might choose to evaluate Sallekhana on the basis of whether or not it would pass the PDE.

While suicide would not likely pass the first condition, Sallekhana is not a violent, singular act of self-killing, but a slow fast. Therefore, it is difficult to isolate the act itself from its consequences. However, assuming that the act itself is merely not partaking in the consumption of food, it is likely that it would not be considered, in itself, morally wrong. Therefore, Sallekhana may pass the first condition. One might argue, however, that the act itself is the moment of vowing to die of starvation, in which case, it may not pass.

This brings us to the second condition. The bad effect, death, must not cause the good effects of Sallekhana, namely, the ability to die without violating one’s code of conduct, the escape from karmic bondage and the non-killing of organisms. Since one could not experience the good effects of Sallekhana without dying as a result, it is unlikely that Sallekhana would pass this condition. One might argue that some of the good effects are caused before death, but, since it would not be considered Sallekhana they did not lead to death, it is unlikely this would hold up.

Sallekhana would almost certainly not pass the third condition, as the practitioner must not only intend their death, but meditate upon it and embrace it as a part of the process from the beginning. As Tukol writes “Sallekhana is facing death voluntarily...by observance of austerities gradually abstaining from food and water and by simultaneous meditation on the real nature of the Self until the soul parts from the body”. The practitioner not only intends death, but must desire it fully, preparing the mind and the body for it.

Finally, the bad effect must not outweigh the good effect. Perhaps the Catholic group would be willing to accept the Jaina perspective which would justify the practice of Sallekhana. This condition is rather ambiguous and leaves much open to the interpretation of the person evaluating the situation. However, even if Sallekhana did pass this condition, it would almost certainly not pass the rest and therefore would not pass the PDE.

Since it does not pass the PDE, there is good reason to believe that the Catholic group would have grounds to argue that Sallekhana is not moral. Doubtlessly, one could make seemingly endless arguments both for and against Sallekhana from both perspectives. Additionally, there is no obligation for either group to adapt the values of the other when making their decision and no explicit degree to which they are guided toward doing so, even when consenting to using moral language which is accessible to both groups.

Given these circumstances, one might wonder what arguments could be made using justifications rooted in both Catholicism and Jainism under the pretense of Engelhardt’s methods. As an extreme example, I’d like to use the idea of mass suicide. Presenting it as an alternative to Sallekhana, one might argue to both groups that, in order to be included in their moral decision, my perspective must bear mutual weight.

Assuming the label of ‘moral stranger’ I may assert my right to mutual respect. As Engelhardt writes, “as moral strangers, individuals are respected...because such respect is integral to a morality for moral strangers….since one cannot discover a general, morally authoritative social nexus ontologically prior to individuals, individuals hold center stage when moral strangers meet”.

In brief, I could argue that the notion of negative karma is outweighed by the overall good caused by ending consumption of organisms by a large group of people within my belief system. Using the argument above, which compares positive karma to the will of God, I might argue that mass suicide is the most effective way of attaining both.

While perhaps not the best argument, there is no effective moral middle-ground that I would be obligated to consider in order to confirm my will to morality. Additionally, there is no way of measuring the objective value of my arguments. To use Engelhardt's own simile, this system of morality works like a post office, mailing all literature regardless of content. "As long as endeavors are peaceable, no judgement is made regarding the moral content of the literature".

What, then, is to be done in regards to children, the mentally ill and those otherwise less capable of willing anything with rational thinking, let alone morality? Engelhardt elaborates on the post office example by saying that, regardless of personal views, all who are using it acknowledge the right of others to use it. This does not, however, in my opinion, provide an adequate guideline for treating those whose decisions must be made either inadvisably by themselves or by someone else.

The major problem with this is that the degree of intellectual autonomy that Engelhardt assumes on the part of the individual may exceed their capability to make decisions to benefit them. Additionally, there is room for moral manipulation, establishing norms which are psychologically persuasive and creating tacit social pressure whose influence should not be dismissed. When treating an anorexic, one does not simply acknowledge their right to will their own demise, disregarding the influence of social norms and psychological effects.

In most societies, there is a point at which detriment to an individual (even a right-minded individual) outweighs their right to make decisions for themselves. Usually, this line is drawn when it comes to suicide, drug abuse and psychological states which may be affected by circumstance rather than chronic. For example, depression may lead to a temporarily altered state of mind which, once passed, the sufferer may be incredibly grateful to have not had lead to something like suicide.

In a real post office, despite the tolerance for idealistically objectionable materials, there are still things that are illegal. You can’t send a bomb through the mail. You can’t send alcohol to a minor. Even in Engelhardt’s own example, there is a point at which it would likely be advisable to draw the line in terms of where mutual respect is outweighed by moral considerations.

Of course, this objection doesn’t solve the issue of what is and isn’t moral. It is here that I would like to object to Engelhardt’s characterization of ‘the Enlightenment project to provide a secular grounding for morality’ as a total failure. While I agree that the likelihood of religious groups ever setting aside their differences to arrive at a universal framework for morality based on common good alone, I do think there could be a compromise between an assumption-based framework for morality which relies on reason alone and a framework like Engelhardt’s, which places individual will to morality above all else.

“If we cannot secure as an intellectual possibility a moral foundation that people share as moral strangers, then a definitive rationally justified resolution of controversies regarding euthanasia, abortion, suicide, and the just distribution of health care resources will not be feasible”, writes Engelhardt. While I agree, I do not think that the solution is to entirely abandon the idea of establishing a moral framework which is based on canonical moral ranking. Rather, I think an Engelhardtian method of approaching the conflicts within morally strange groups which seeks to consolidate their views into a morally concrete system through enforced consensus would be idea.

For example, in the above conflict between the hypothetical Jaina and Catholic groups, there seems to be no real resolution arrived at because neither argument, regardless of how persuasive, has a common moral framework in which to be evaluated. If, for example, it was decided by consensus that human life itself is not more valuable than the meaning the individual ascribes to it, then the arguments above could be appraised based on their ability to demonstrate said point.

In that case, the Jaina group would likely be determined to have the best argument, as they seek Sallekhana as fulfilling practitioners desire for a meaningful life. Similarly, if it had been determined through consensus that the value of life is inherently more important than any other concern, the Catholic group would likely win. Of course, this would mean pre-determining the framework in which the debate would take place, but I think that this is already a well-tested means of making ethical and legal decisions.

As an example, the United States Constitution has been used in making legal decisions for centuries, yet ethical debates have amended it several times, maintaining a system of consensus that most Americans are happy to abide by, even though elements of it may violate their personal opinions. I would suggest that similar ‘guidelines’ could be written, established, debated and amended for use in future disagreements between moral strangers. If a moral framework, however rudimentary, could be agreed upon before debate, there may be a much less relativistic outcome.

The danger here is trampling over the rights of moral strangers and establishing guidelines which are so morally universal as to create moral outlaws simply by making it impossible to escape consensus. The point at which the ‘social contract’ becomes implicit is the point at which it ceases to be a contract. The solution to this, in my opinion, is to keep larger moral frameworks arrived at by consensus from becoming too universally applied to large populations and to constantly allow for them to be debated and amended to accommodate changing opinions and populations.

To ground this by example, in a case where a patient requests physician-assisted suicide, but the physician refuses to perform it, there may be an impasse, in which both, in having the will to morality, wish to respect the other, but can not arrive at a consensus as to whose value judgement are to be considered primary. If the patient and doctor had agreed to a moral framework upon entering the hospital (for example, that in cases of PAS, the Doctor must abide by the patient’s wishes as long as they are sound of mind), the debate would be much more easily resolved.

The problem is that, without recourse, the patient becomes a moral outlaw by default. Perhaps the solution is that mutual respect means being prepared to accommodate moral strangers with alternate moral frameworks. Which is to say, the above stipulation would only be acceptable if the patient above could reasonably chose a framework which accommodates their moral stance.

Another way in which this may work is that, by predetermining moral frameworks which are not necessarily universal, moral strangers may be able to arrive at consensus on issues which may be too complex or specific to ground in a more universal morality. For example, a debate over the nature of the soul between an atheist and a Christian may be nigh impossible to bring to conclusion. However, a debate between a Christian and a Catholic, in which it is pre-agreed upon that the Bible is the word of God, there is a higher power and human souls are real may be able to reach consensus on some finer points which would otherwise be very difficult to explore in a rationalist, Enlightenment-type framework, in which reason is the only framework that arguments are evaluated against.

Ultimately, the value of Engelhardt’s methods, in my opinion, is the emphasis on individual autonomy. Instead of the Enlightenment attempt at establishing a singular moral framework which would be universal and therefore create moral strangers by default, the consideration of Engelhardt’s methods could provide a valuable jumping-off point for a method that is both functional and does not trample over individual rights, creating moral outlaws and further conflict.

Additionally, Engelhardt’s methods, even when not entirely useful in establishing concrete morality, create a forum in which moral strangers may communicate with a common goal. In the absence of communication, there are few alternatives to violence. Perhaps debate, even without a conclusive decision made as a result, is valuable simply for the understanding it provides between moral strangers.