

Strength of reasons for moral dissent

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One dissents from acts practiced by asserting they are wrong, a deontic property, supervening on non-deontic properties. The warrant licencing the inference may be validated by moral intuition or by some higher level moral principle. Reasons for the acceptability of the act are rebuttals for the warrant. Rebuttal resistance constitutes warrant strength. One may appraise strength by recognizing the classes of relevant potential rebuttals for a warrant and the plausibility of members of that class.

KEY WORDS: backing for moral warrants, desire for affiliation, moral intuition, moral principles, moral realism, moral relativism, *prima facie reasons for wrongness*, rebuttals for moral warrants, reflective equilibrium

1. INTRODUCTION: MORAL DISSENT AND REASONS FOR MORAL DISSENT

Moral dissent expresses a judgment that performing an act or engaging in some practice, especially a practice prevalent in society, is wrong or should be opposed as a matter of duty. Hence moral dissent involves a deontic judgment. What constitutes a reason for such a judgment? To justify a judgment that a specific act or a practice is wrong one may assert that the act or practice satisfies some non-deontic but deontically relevant property. To say that someone made statements which are factually false and which mislead others both describes the act and attributes to it possible consequences, non-deontic but nonetheless deontically-relevant properties. Likewise, to say that a practice results in physical or mental suffering is to express an interpretation, albeit one which is deontically relevant. But to ascribe wrongness is to ascribe a deontic property to the act or practice. The deontic property supervenes on the deontically relevant properties.

Supervenience brings us to argumentation. Using the terminology of the Toulmin model (See 1958, pp. 98-99), rules of supervenience may be expressed as warrants. For example

From: x has made promise to do A
To infer (*ceteris paribus*): it is wrong for x not to do A

The phrase "*ceteris paribus*" indicates that the rule is defeasible. In general, an argument concluding that an act is wrong or satisfies some other deontic property from the premise that it satisfies some non-deontic but deontically relevant property is defeasible. Hence reasons for deontic judgments do not deductively entail these judgments. How then may we appraise the connection between deontically relevant and deontic judgments, in particular the reasons for moral dissent?

Toulmin has taught us that warrants have backing. In (2005b), we argued that warrants may be classified according to the type of evidence backing them. An empirical warrant is backed by a body of observed evidence showing a co-variation between the empirical property cited in the premise and the empirical property cited in the conclusion. What then is the analog for moral arguments licensing a move from a non-deontic property to a deontic property?

2. SOURCES OF EVIDENCE BACKING DEONTIC WARRANTS

2.1 *Moral intuition and moral sense*

We hold that two types of evidence may justify deontic warrants—evidence recognized by our moral intuition and evidence presented by moral principles, in particular higher level moral principles. Empirical intuition recognizes connections, in particular regularities, between empirical properties by observation, while moral intuition grasps connections between properties accessed by moral sense and properties which are the deontic consequences of those properties. What is involved here requires explicating. In some cases, the recognized connection is self-evident and grasped immediately. Some might be tempted to say that such warrants are self-backed. But this obscures how they are backed. In particular, it obscures the interaction of moral sense and moral intuition. Antecedent to recognizing general deontic connections, by moral sense we may recognize the rightness or wrongness of particular acts. While slavery was still practiced, a young white person might witness the beating of a black person and immediately recoil, recognizing that the act was very wrong. The belief in the wrongness of the act was immediate, not the result of reflecting on any morally relevant properties of the act or any moral principles. Our moral intuition lets us move from recognizing the wrongness of the particular beating to the general connection of that wrongness with the features of the beating, that they are the reason why the act is wrong, a reason which holds in general. Moral sense, then directly apprehends

the wrongness of wrong acts and the obligation to avoid, prevent, or oppose them.

That humans have a moral sense and how that sense develops and operates has been discussed and developed at length by Wilson in (1993). As we discussed in (2005a, pp. 246-50), Wilson's discussion lets us understand the role of moral sense in forming judgments of deontic value. He identifies a human desire for affiliation as "the mechanism underlying human moral conduct" (1993, p. 127). The newborn infant displays prosocial behavior which is met by an "instinctively caring response" (1993, p. 127). A morally significant bond is thus formed between a child and a parent. The child comes to trust that an empathetic person is responding to his or her needs. This empathy allows the child's own empathy to develop. But empathy is expressed in concern for others manifested through acts of sympathy and through feeling one has an obligation to perform such acts. As we pointed out in (2005b, p. 246), in the desire for affiliation or attachment to others we can see the root of felt obligation—that it is right to perform acts of beneficence, wrong to perform acts of maleficence, and a duty to perform acts of reparation, if you hurt someone.

Wilson holds that these acts are not simply means to an end, to ingratiate oneself to others or not alienate them. What case can he make for claiming something more for these acts? Infants will start imitating some human behaviors almost from birth and these prosocial behaviors will increase over time. Very young infants will respond to or imitate certain behaviors of adults. "Within two years the prosocial behaviors of children become obvious. They will ... share things or activities with others, help others do things, and bring things or offer consolation to people in distress" (1993, p. 124). This sociability has evolutionary advantage. The human race would not last long if parents did not care for and nurture their children over a long childhood. This may explain why parents are sociable, but why children? Wilson now clinches his argument. "What evolution selects for is not *behavior* ..., it only selects for mechanisms that produce a behavior or predispose an animal to it.... The mechanism underlying human conduct is the desire for attachment or affiliation" (1993, pp. 126-27). The mechanism for prosocial behavior of infants may be understood as this desire. Rewarding this behavior with attention is not simply behavioral reinforcement but enables the child to grow into its next stage. (1993, p. 129).

One of these stages, one which is morally significant is rebellion. This behavior lets a child develop a sense of self, that he or she is different from others. But this recognition is a necessary condition for developing a sense that one can make claims and recognize that others have claims (p. 130). But this in turn is necessary for the moral sense to develop. This is not hard to understand. "The rudiments of moral action [are] a regard for the well-being of others and an anxiety at having failed to

perform according to standard" (p, 130). Wilson points out that Darwin in *The Descent of Man*, has discussed how the moral sense develops. Wilson in (1993, pp. 130-31) presents Darwin's reasons. Sociality leads one to take pleasure in the company of others. Given a certain level of mental development, one becomes able to reflect on one's previous behavior and be dissatisfied when one has not acted as required. The development of language extends one's understanding of the wishes of others and allows discussion of what acts one ought to perform. This in turn leads to habits of acting in accord with one's own instincts, taking account of the experienced wishes of others. But these habits "are, for most us, the fundamental basis of moral life" (p. 131).

If Wilson is correct about the rudiments of moral action, when seeking to give comfort to another child, a child has a reason for that act no matter how dimly appreciated. Here apprehension that the act is right or even a duty and the apprehension of the reason for its being right or a duty come together. Similarly, when a child conceives of the possibility of not performing an act, when the moral sense has indicated the wrongness of the that omission, the child may apprehend a connection between the act's being an omission and its being wrong. In each case, the child's moral intuition recognizes the connection, what is a reason for what. It remains for intuition to recognize further a general connection between the reason and the deontic property. Cohen in (1986) warns that we must be careful using the word "intuition." By it we do not mean something esoteric or indicate a higher way of acquiring beliefs or knowledge. Intuition rather concerns "what counts as a reason for what" (1986, p. 73). "An intuition that p is ... just an immediate, unreflective, and untutored inclination, without argument or inference, to judge that p ..." (p. 75). Moral intuition also is not a mechanism to recognize the truth of analytic propositions. It does not recognize immediately that some non-deontic property includes some other deontic property in its meaning. Rather it recognizes synthetic *a priori* propositions. This is not to imply, however, that such judgments are necessary. We have already indicated that they are defeasible.

Our position regarding moral sense and moral intuition is an unabashed moral realism. Moral sense generates deontic judgments about right, wrong, and related deontic concepts, while moral intuition generates judgments about what makes right acts right or wrong acts wrong or similar deontic connections. Our view then is obviously open to objections against moral realism. It is well that we confront such objections right at this point. They threaten the very legitimacy of this inquiry. Does it not fly in the face of cultural relativism? Are not "right" or "wrong" simply expressions of cultural preference, approval or disapproval conditioned by what has come to be thought normal, as Benedict (1934) and other cultural anthropologists claim. Does it make

any sense to claim that there are any moral reasons, in particular reasons for moral dissent, reasons that can be compared for strength? Baylis states these objections forcefully in (1967). Different societies or different groups within the same society may differ radically over the rightness or wrongness of a given practice. Rachels in (1986) points out that Herodotus reports that Callatians had a custom of eating the bodies of their dead fathers, while Greeks were shocked at the very prospect of such behavior. By contrast, Greeks cremated their dead while Callatians found the very prospect of such behavior horrifying. So the moral sense of the Callatians finds eating dead bodies right or a duty and cremating bodies very wrong, while the moral sense of Greeks finds cremating bodies right and eating them very wrong. We may expect moral intuition may grasp non-deontic reasons for these contrasting moral judgments. So whose moral sense and moral intuition are correct, or is correctness here simply beside the point? Benedict argues this way: Different cultures have different ways of life determining what within that culture is regarded as normal. What a culture regards as normal determines what that culture views as right or wrong. Morality "is a convenient term for socially approved habits" (1934, p. 368).

How may this objection be met? First, should relativists present facts about cultural moral differences, they are making descriptive statements supported by considerable evidence. But should they claim that difference shows there is no objective right or wrong, no objective moral judgments, that moral sense and moral intuition are completely products of culture or custom, they are making a metaethical judgment about these claims. Does the descriptive statement constitute an adequate reason for the metaethical claim? Rachels argues that it does not. Mere disagreement over some issue does not show there is no objective truth about the matter. Most obviously, one view might be correct and the other mistaken. We may cast Rachels' point as a refutation by logical analogy. The cultural relativity argument is like arguing that because people have and some still do disagree over whether the earth is flat or round, therefore there is no objective truth about the shape of the earth! Rachels points out that there are further points to make against cultural relativism. On this view, no culture is morally better or worse than any other. A culture which endeavors to treat all its members fairly is no better or worse than one which exploits and oppresses certain groups, even to the point of genocide. Furthermore, some disagreements about value are due to differences in interpretation. This point has particular relevance for the issue of whether it is right or wrong to maintain certain monuments to historical figures who are revered but some find are symbols of oppression. Rachels also points out that some values, for example those expressed through the golden rule, are shared by many cultures. Indeed, some

values may have existential implications. Can a society long survive if there is no presumption that communication is normally truthful? Can the trust which is necessary among members of society for mutual cooperation survive the acceptance of “alternative truths”? Could a society endure for long if there were no societal prohibitions against murder, adultery, stealing? Could there be human flourishing in that society? Indeed, could many members of that society ever survive at all if it were in a state of perpetual war of all against all or survival only of the fittest? Rachels puts the point plainly: “There are some moral rules that all societies will have in common, because those rules are necessary for society to exist” (1986, p. 376).

In the examples we have been considering so far, moral intuition grasps connections directly or immediately. But moral intuition may also be instructed to recognize connections through learning accepted rules. Hence moral rules or, more generally, moral principles may also constitute backing for deontic warrants. How this happens is the subject of the next subsection.

2.2 General moral principles

Moral intuition may grasp the connections between one’s having made a particular promise and one’s having a moral obligation to keep it together with one’s having broken the promise and having done something morally wrong. But intuition also grasps general connections between deontically relevant properties and deontic properties. In (1930), Ross asserts concerning a particular connection “To me it seems as self-evident as anything could be, that to made a promise ... is to create a moral claim on us in someone else” (p. 21n). Ross continues, “When we have reached sufficient maturity to think in general terms, we apprehend *prima facie* rightness to belong to the nature of any fulfillment of promise” (p. 33). The claim of a general connection between making a promise and being morally obligated to keep that promise states a moral principle. One may agree that *this* connection is self-evident but question whether all such deontic connections are self-evident. Some logical or mathematical statements may be self-evident but others may require significant proofs to show why the statement holds. We can distinguish rational intuition from rational deduction (Compare Plantinga 1993, p. 107) . Cannot the same hold for some general moral principles? Cases of moral dissent, where the dissenter seeks to justify this dissent to interlocutors readily provide examples. In the *Crito*, Socrates’ friends want him to escape from prison and thus from execution, They have the means to enable him to carry this out. Socrates dissents, and gives his interlocutors an argument to justify his position. They certainly do not see a self-evident connection between

escaping and acting in a morally wrong way. Rather Socrates sees his escaping instancing further properties relevant to the wrongness of making an escape. He intuites wider moral principles from which the wrongness of escaping follows.

Socrates defends his dissent by stating first that “Injustice is always an evil and dishonor to him who acts unjustly” (Jowett 1937, p. 433). He argues that this principle implies that we cannot retaliate, rendering injury for injury, evil for evil. But, Socrates presses, if he were to leave the prison against the will of Athens, which sent him there, he would be injuring the Athenians. More so, he would be wronging the laws of Athens and thus acting against the very stability of the state, even though the state had treated him unjustly. The laws if the state enabled his parents to marry and required his father to educate him. Since to disobey the laws would be to do them an injury and injuring them is wrong, his disobeying the laws of Athens by escaping would be wrong, even if the laws were treating him unjustly. Furthermore, one who remains in a state after one’s reaching majority “has entered into an implied contract that he will do as [the laws] command him” (1937, p. 435), laws which had regulated the society in which he lived during his lifetime heretofore. These laws had nurtured him and enabled him to flourish. His alternatives then are to obey the commands of the law or to present an argument which will be sufficient to show that the laws’ commands are unjust. By escaping, he will do neither. His escaping then means he is injuring the citizens of Athens. It would also break his contract with the laws. These are morally relevant considerations which moral intuition sees making his escape wrong. Hence, if intuition does not immediately see a connection between a deontically relevant property and a deontic property, argument, by appealing to further intuitions, may show the connection.¹ Such an argument may support a universal generalization asserting a connection between escaping and its wrongness and back the warrant corresponding to this generalization.

Discussion of supporting arguments introduces an additional way to support moral principles and back their corresponding warrants. As Kirk indicates, “It is the desire of every reasonable man [sic] to subordinate his judgments more and more to the smallest number of general principles” (1948, p. 35). Such principles include higher level moral principles, the subject of the next subsection.

¹ We are not here commenting on the merits of Socrates’ argument or claiming that nothing more may be said about the issue. Our point is that deontic connections can be seen through argument and not necessarily just through intuition.

2.3 Higher level moral principles

How may we distinguish basic level from higher level moral principles? Contrasting examples may illustrate the distinction. Cohen offers this example of a basic moral principle:²

For any x and y, if x enslaves y, x acts in a morally wrong way towards y

(1970, p. 173). This statement asserts a general deontic judgment about pairs of individuals. One relation's holding between these individuals is a sufficient condition for a second relation to hold. We may also construe the statement as asserting a general deontic judgment about the elements in a class of acts, that each of them is morally wrong. Contrast this example with the following statement of Mill's Harm Principle:

Harming others is the only justification for limiting an individual's basic liberty.

What exactly is this statement saying? We may paraphrase it this way:

Acts of limiting an individual's basic liberty unless to prevent harm to others are morally unjustified (morally wrong).

While the basic principle makes a general claim about individuals who could be related in a certain way and the deontic consequences of their being in that relation, the higher level principle makes a claim about a whole class of acts. How is moral intuition a source of evidence for higher level principles and how do they back warrants? We shall take each question in turn.

Our distinguishing deontic judgments concerning particular acts, basic level general deontic judgments, and higher level moral principles parallels a distinction made by Sidgwick as reported by Cohen in (1986, pp. 80-81). Sidgwick distinguishes perceptual, dogmatic, and philosophical intuitionism. Perceptual intuition, appealing to conscience, responds "to particular quandaries on particular occasions" (1986, p. 80). Dogmatic intuitions concern general rules, while "A philosophical intuitionist ... is one who seeks intuitions of fundamental principles that are not evident to ordinary people, in order to explain, justify, or even rectify the morality of common sense" (1986, p. 81). If fundamental principles and higher level principles are the same, as surely Mill's harm principle is a fundamental principle for his ethics, then Sidgwick has indicated that intuitions play a role in coming to accept higher level moral principles. If at least some philosophical intuitions behind higher level principles are not evident to ordinary people, philosophical intuitionists have the burden of proof to argue for

² Cohen characterizes this statement as an elementary moral generalization.

them. We hold that reflective equilibrium allows defending higher level principles. We turn to that in the next subsection.

2.4 Reflective equilibrium and reasons for higher level moral principles

Reflective equilibrium is a specific type of reasoning . Rawls discusses this method in connection with the two fundamental (and thus higher level) principles he puts forward for justice, in particular social justice.³ Reflective equilibrium arguments can go either way, from basic to higher level principles or from higher to basic level. Rawls speaks of considered principles, which we understand as basic principles with are either self-evident or follow ultimately from self-evident moral principles. Ideally, there should be harmony between the two levels. If so, our considered basic principles increase our confidence in our higher-level principles “from below.” Conversely, that a considered basic principle follows from a higher level principle increases our confidence in that basic principle “from above.” Going from higher to basic level principles is a matter of deduction of some sort. (In (2009) we opined that such arguments would be enthymemes in the sense of Hitchcock (1985).) How does going in the opposite direction support higher level principles? Our considered basic level principles of which we are confident constrain how we formulate higher level principles to be consistent with these basic principles. However, conflicts can arise between these levels—a basic level principle commends some action while a higher level principle requires something incompatible. Resolving such conflicts may require modifying our considered basic level principles, or higher level principles, or both, until there is a match between the levels. As Rawls puts it, reflective equilibrium “represents the attempt to accommodate within one scheme both reasonable philosophical conditions on principles as well as our considered judgments of justice” (1971, p. 21).

2.5 How do higher level principles back warrants?

As we have seen, higher level principles differ from basic level generalizations by identifying a class of acts, e.g. acts constituting limiting or curtailing the extent of an individual’s basic liberty, as opposed to a type of act, e.g. prohibiting same sex marriage. For a higher

³ EQUALITY: Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others (1971, p. 60).

DISTRIBUTION: Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all (1971, p. 60).

level principle to back a warrant, the premise of the warrant must place a type of act within the class of acts the principle identifies. To answer this question of how such principles back warrants, we examine some examples. Consider again Mill's harm principle: Harming others is the only justification for limiting an individual's basic liberty. Rawls' first principle of justice is strikingly similar: Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others" (1971, p. 60). The warrant

From: Forbidding two persons of the same sex to marry each others is restricting their liberty concerning the choice of a marriage partner and

Two persons of the same sex marrying each others harms no other individuals (if it even harms them).

To infer *ceteris paribus*: Forbidding two persons of the same sex to marry is unjustified, i.e. wrong.

The two premises of the argument together place forbidding same sex marriage within the class of types of acts which the harm principle rules against.

Again the warrant

From: Forbidding people from drinking moderate amounts of coffee is restricting their freedom of choice regarding what they may consume.

A person's drinking coffee in moderation harms no other person.

To infer *ceteris paribus*: Prohibiting moderate consumption of coffee is unjustified and wrong.

Hart and Feinberg have proposed stronger versions of the harm principle which also back warrants in the same way. Hart's version sanctions acts which harm the agent himself or herself beside those which harm others. Given our illustrations of how the harm principle backs warrants, seeing how Hart's version backs warrants is straightforward. Feinberg's offense clause, allowing sanctioning acts which cause profound offense to others, simply more precisely defines the class of acts which harm others. Consider here also the two maxims Mill proposes in the last chapter of *On Liberty*.

(1) The individual is not accountable for his actions in so far as these concern the interests of no person but himself.

(2) For such actions as a prejudicial to the interests of others, the individual is accountable and may be subjected to social or to legal punishment.

(1956, p. 114). We may straightforwardly paraphrase these maxims in more characteristic deontic language.

(1') Acts which affect only the interests of the agent are always permissible.

(2') Acts which harm the interests of persons other than the agent are not permissible, wrong.

Here the warrant has just one premise concerning the class of acts which affect only the agent or the class of acts harming persons other than the agent. The warrant licences moving either to being permissible or impermissible. We have made our point. Higher level principles concern classes of actions and back warrants licencing a move from an act's being a member of that class to its having some deontic property.

We have indicated that deontic arguments are defeasible. The premises may support the conclusion all things being equal. A statement logically consistent with the premises may hold but be negatively relevant to the conclusion and may cancel the positive evidence presented in the premises. Such a statement is a rebutting defeater or a rebuttal. The issue of rebuttals is at the heart of appraising the strength of reasons for moral dissent, indeed the strength of reasons for deontic judgments in general. We begin developing our account in the next section.

3. DEONTIC WARRANTS, REBUTTALS, AND DEFEASIBILITY

Consider Ross' statement "To me it seems as self-evident as anything could be, that to make a promise ... is to create a moral claim on us in someone else" (1930, p. 21n). Hence moral intuition backs the following warrant:

From: x has promised y to do A

To infer *ceteris paribus*: x has a duty to y to do A.

Promises can be overt or explicit. Consider Socrates again. He regarded his remaining in Athens as an implicit promise to abide by the laws of Athens. Many might agree with Socrates' rationale for obeying the laws of the country in which they abide. But those laws may impose taxes. Especially if the country is a military power, some tax revenues may be spent on military weapons and on supporting wars resulting in humanitarian disasters. Suppose all available evidence one has indicates that the victims of such a disaster have done nothing to deserve the suffering they are experiencing. Their suffering is unjust. Suppose one knows that this unjust suffering is occurring. Suppose one also recognizes a duty of justice, to do what one can to redress the balance when unhappiness or pain has been distributed undeservedly. In such a situation, does one still have a duty to pay one's taxes helping to facilitate this injustice? Clearly, we have good reason to believe that all things are not equal. Therefore one may hold that one may withhold all or some of one's tax payment. That one's payment finances an unjust humanitarian disaster counts as a rebuttal to the warrant licencing passing from making an implicit promise to having a duty to fulfill what

the promise entails. We are here using the term “rebuttal” as Toulmin uses it in (1958) as “indicating circumstances in which the general authority of the warrant would have to be set aside” (p. 101). Given an argument instantiating a warrant, a rebuttal to the argument is a statement logically consistent with the premises of the argument but negatively relevant to the conclusion. Arguments are defeasible if and only if they can be plausibly rebutted. The strength of reasons in arguments and indeed the strength of connection in arguments overall is directly relevant to the rebuttals the argument faces.

How are rebuttals related to the strength of reasons for deontic conclusions, in particular for reasons for moral dissent? First, how may we identify the rebuttals which may apply in a deontic argument? Just as moral intuition is involved in recognizing a deontic principle, i.e. that a non-deontic property is a reason for a deontic property, so it is also involved in recognizing rebuttals. This point is straightforward. In a deontic argument, a rebuttal is negatively relevant to a deontic property, a reason why the property does not hold. Perhaps more strongly, a rebuttal is a reason why the converse of the property holds. For example, a rebuttal may not only be a reason for saying we do not have a duty to do A but a duty to not do A. We would expect then that the ways we would recognize positive deontic connections would also be ways to recognize negative deontic connections. A search to identify rebuttals for a deontic argument, in particular an argument giving one or more reasons for dissent, may be guided by systematically considering the list of *prima facie* duties Ross puts forward in (1930).⁴

Ross proposes six classes of *prima facie* duties, the first divided into two subdivisions. First, duties of fidelity rest on a promise, explicit or implicit. Duties of reparation rest on having done “a previous wrongful act” (1930, p. 21). A duty of gratitude to a person supervenes on having benefitted from an act done previously by that person. Duties of justice are occasioned by acts done previously which do not distribute pleasure or happiness in proportion to the merit of the persons receiving that pleasure or happiness. The duty is to correct that faulty distribution. Dissent then is a duty when benefits are given without adequate justification. Duties of beneficence enjoin improving the lot of others “in respect of virtue, or of intelligence, or of pleasure” (p. 21). Duties of self-improvement “rest on the fact that we can improve on our condition in respect of virtue or intelligence” (p. 21). Finally, the duty of non-maleficence is the duty not to harm others. We have the ability to avoid

⁴ We understand “*prima facie*” with Rawls in (1971) rather than Ross. For Ross, *prima facie* duties are distinct from duties. For Rawls, we may have *prima facie* reasons for duties, i.e. “*prima facie*” characterizes the relation between the premises and the deontic conclusion, not the conclusion itself.

harmful acts and therefore (*ceteris paribus*) we have the duty to avoid them. Rawls in (1971) adds that a full system of rules will contain primary rules indicating under what circumstances one principle of duty takes precedence over another.

How are *prima facie* reasons for duties related to *prima facie* reasons for wrongness? The answer seems straightforward. A is a duty for some person x if and only if it is wrong for x not to do A. So if fidelity is a *prima facie* reason for A to be a duty for x, it is also a *prima facie* reason for the wrongness of x's not doing A. If A is an act of reparation for x's having done a wrong act B, being an act of reparation is also a reason for x's not doing A or an equivalent act of reparation to be wrong. We may continue this for the remaining duties in Ross' *prima facie* list. His list of *prima facie* duties is thus relevant to issues of moral dissent.

How does his list further generate a list of rebuttals to arguments that some act is wrong? The key is remembering that there can be conflicts of duties. We can identify rebuttals to a dissenter's argument that some act or practice is wrong by asking these questions.

- (1) What type of wrong is it, i.e. what type of violation of a *prima facie* duty does it instance?
- (2) For the type of wrong, identify the conditions which would nonetheless justify performing the act, being reasons for more weighty conflicting duties. For example,
 - (a) An act of breaching a promise is also an act of keeping a more serious promise one has made.
 - (b) An act of telling a lie is also an act of preventing a more serious harm.
 - (c) An act of inflicting an injury is also an act of self-defense or an act done to avoid an even greater harm.
 - (d) An act of ingratitude for a benefit received is also an act of avoiding a harm since the benefit was given with sinister intent and an act of gratitude would only encourage further sinister acts.
 - (e) An act of tolerating an injustice prevents an even greater injustice.

In some cases, though, we may not be able to identify a rebuttal, at least not readily. How could one justify a total failure to do any act of beneficence, a life of unmitigated selfishness? How could one justify an unmitigated failure to use any means to growth? No doubt that in arguments that a specific act or practice is wrong, we may be able to recognize a plurality of specific rebuttals. The point is that we may derive a list of *prima facie* wrongs from Ross' list of *prima facie* duties, and from these an account of rebuttals to arguments that an act is wrong. We hold that recognizing rebuttals is central to appraising the

strength of reasons for moral dissent. We elaborate and defend this claim in the next section.

4. REBUTTALS AND THE STRENGTH OF REASONS FOR MORAL DISSENT

When is one reason for the wrongness of an act stronger than another reason for the wrongness of that act or stronger than the reasons given for a different act? That is, when is one act more wrong than another? Cohen offers this insight:

The wrongness of killing ... may be thought more important than the wrongness of telling a lie, insofar as all circumstances that are exceptional for the former (war, self-defense, etc.) are also exceptional for the latter, while many exceptional circumstances for the latter (arising out of politeness, kindness, etc.) are not exceptions for the former" (1971, p. 176).

Exceptional circumstances are rebuttals. Consider the warrant:

From: x did not pay x's workers their due wages.
To infer *ceteris paribus* x acted in a morally wrong way toward x's workers.

How might an argument instancing this warrant be rebutted? Ought implies can. x simply does not have the money to pay the workers and he is completely non-culpable for his being in this situation. Someone has stolen the money. Revenues for the business were insufficient to make payroll and this could not have been predicted when the employees began work. Our moral intuition may vouch for the negative relevance of one's being in these conditions to one's having acted in a morally wrong way toward one's workers.

Contrast this warrant with the following:

From: x did not pay x's employees a bonus comparable to the bonuses paid by other companies.
To infer *ceteris paribus* x acted in a morally wrong way toward x's employees.

The premise is morally relevant to the conclusion on grounds of justice. Equal work is not being equally compensated. How may an instance of this warrant be rebutted? Besides not having the money to pay bonuses, the employer could not have made any promise to pay bonuses or even hinted that bonuses were a possibility. Also, the employees might not have produced work at a level meriting bonuses. Again, any money available to pay bonuses might be needed more to invest in the business or to upgrade equipment. These again are rebuttals. But, taking just

these examples into account, where the first warrant admitted of just one rebuttal, the second admits of three. This explains why our moral intuition judges instances of the second warrant as weaker arguments than the first.

May we say then that the strength of an argument for moral dissent varies inversely with the number of rebuttals that can be brought against it? That would be hasty. Consider the following rebuttal to the second warrant:

x has memory images of his paying bonuses to his employees because he is suffering from partial amnesia caused by a beam of radiation directed at him by an Alpha Centaurian scientist.

Now if this rebuttal were the case, the argument for the employer's not paying fair bonuses to his doing something morally wrong would be undercut. But how plausible is the rebuttal? Put the question this way: If a challenger brought forward this rebuttal to defeat the argument, would the burden of proof be on the dissenter who proposed the argument or the challenger to show that the rebutting condition could hold? Clearly the burden is on the challenger. The rebuttal is not plausible. According to Rescher, the plausibility of a statement

reflects the prospects of its being fitted into our cognitive scheme of things in view of the standing of the sources or principles that vouch for its inclusion herein. The core of the present conception of plausibility is the notion of the extent of our cognitive inclination towards a proposition—of the extent of its epistemic hold upon us in the light of the credentials represented by the bases of its credibility (1977, pp. 38-39, *italics in original omitted*).

So our proponent of the dissenting argument would be perfectly correct in asking the challenger for evidence that the employer was suffering from radiation directed at him by a space alien. That claim simply does not fit into our picture of the way the world works. Hence, it is not the sheer number of rebuttals that could be brought against the warrant of an argument, but the number of *plausible* rebuttals. The strength of a reason for moral dissent then varies inversely with the number of *plausible* rebuttals which may be brought against it.

If one or more plausible rebuttals may be mooted against a particular reason for moral dissent, one may strengthen the overall reason given for dissent in a particular case by asserting that one or more of these rebuttals do not hold in this case. As we have seen, non-culpably lacking the funds to make a payroll payment rebuts the argument from non-payment to moral wrongness. Lacking funds in general is a plausible possibility. But in a given case, this rebuttal may be countered if it is a fact that the employer *has* sufficient funds. As we

have indicated in (1991) and (2011), this information functions as a *counterrebuttal*. Conjoining that information to non-payment as a reason for moral fault produces a stronger reason for that conclusion. It is stronger because it is not subject to a particular possible plausible rebuttal. A given reason may be subject to a number of rebuttals. Conjoining a counterrebuttal to increasingly more of these rebuttals produces an increasingly stronger reason for the conclusion. We can compare the strength of these reasons by the number of counterrebutting conjunctions they include.

What then may we conclude about the strength of a reason for moral dissent? To be a reason at all, a statement must express a non-deontic property which is relevant to the judgment that an act or practice is morally wrong or that opposing it is a moral duty. To be relevant, the reason must be connected to the judgment as premise to conclusion by a warrant which is backed either immediately by moral intuition, supported by other deontic principles ultimately backed by moral intuition, or seen to accord with higher level moral principles, perhaps through reflective equilibrium. The connection however is defeasible. The fewer the plausible rebutting exceptions for the warrant, the stronger the connection and thus the stronger the reason for dissent.

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