

**PROBLEMS OF MORAL ASSESSMENT :
HARD CASES IN APPLIED ETHICS**

(*Skepsis* xvii/i-ii, 2006: 177 - 190)

1. *Introduction*

When we deal with moral disputes which prove difficult to adjudicate we often have the feeling that the theoretical tools we employ are not adequate for our purposes. If we do not adopt purely anti-realist and non-cognitivist views in ethics, and we are not led to skeptical conclusions about the very possibility of moral thinking, we will probably wonder whether we could adjust our concepts and principles in a way which would help us improve our reasoning and reach a correct judgment. More particularly, we may believe that there is a “fact of the matter” which we are trying to grasp, but that our ethical categories are not sufficiently fine-grained to help us describe, elucidate and evaluate it properly.¹ Indeed, philosophers who discuss hard cases in applied ethics often highlight the complexity of the issues involved, acknowledge the unavoidable lack of full determinacy and emphasize the need to search for finer and more accurate conceptual tools. In this paper, I shall focus on some questions pertaining to the moral assessment of such hard cases. I will draw on

¹ Here, and on many occasions throughout this paper, I will use the terms “moral” and “ethical” interchangeably. However, we shall eventually have to take into account the distinction adopted by many philosophers between “thin” and abstract *moral* notions, such as “good”, “right” or “unjust”, and “thick”, concrete *ethical* concepts, such as “courageous”, “generous”, or “cruel”, usually associated with virtue ethics. This distinction is analogous, though different, to Hegel’s contrast between abstract *Moralität* and concrete, social *Sittlichkeit*, embodied in institutions. Moreover, one could draw a parallel with the distinction between the realm of norms and that of values, which plays an important role in the thought of philosophers such as Habermas. On these issues, see, among others, Bernard Williams, *Ethics and the Limits of Philosophy*, London: Fontana, Collins, 1985, Michael Walzer, *Thick and Thin: Moral Argument Home and Abroad*, Notre, Dame, Indiana: Indiana University Press, 1994, Jürgen Habermas, *Warheit und Rechtfertigung*, Frankfurt am Main: Suhrkamp, 1999 and Hilary Putnam, “Values and Norms” in his *The Collapse of the Fact/Value Dichotomy and Other Essays*, Cambridge Mass.: Harvard University Press, 2002, 111-134.

characteristic examples illustrating the significance of distinctions and nuances without which we couldn't attain a clear grasp of the alternative options, let alone be able to undertake their correct appraisal.

Myrto Dragona – Monachou, whose work in this area is a constant source of inspiration for further research, stresses the importance of both contextualist approaches and models of virtue ethics which may help us rectify the rigidity of principle- and rule- oriented conceptions. Nonetheless, she does acknowledge the indispensability of traditional moral theorizing, which she believes we should employ if we want to avoid casuistry.² In fact, in what follows, I am also going to refer to the role of normative theories, including deontological and consequentialist theories and virtue ethics, in the study of such issues and in the evaluation of conflicting positions. However, I want to argue that they cannot be fruitfully applied unless we identify all the salient factors that we have to take into consideration in our effort to arrive at a judicious, well-balanced assessment. Thus, the central aim of my analysis shall be to sketch some of the directions that we could follow in the pursuit of the elaboration and refinement of our criteria of moral appraisal. I hope that this brief account will indicate how we may develop a broader and deeper understanding of the whole enterprise of applied ethics.

2. *Some basic categories and criteria of moral assessment*

Let us begin with a few tedious reminders concerning our basic categories:

“Right” (or *permissible*) and “wrong” (or *impermissible*) are the most general terms employed in the moral assessment of actions. However, *right* may mean either

² See Myrto Dragona- Monachou, *Synchroni ethiki filosofia: O agglonofonos stochasmos*, Athina: Ellinika Grammata, 1995, 361-362ff (in Greek).

simply *optional*, or *obligatory*,³ and the notion of the optional includes the category of morally praiseworthy actions that are characterized as *supererogatory*. Supererogatory actions, which may, for example, constitute instances of extraordinary kindness, bravery or generosity, are not supposed to be required and are usually presented as pointing to an ideal that most human beings fail to attain.⁴

To the extent that the goal of moral theory is to establish criteria for evaluating and guiding conduct it must make clear what should count as right and what as wrong, and it usually does so by appealing to various conceptions of value, duty and virtue. In fact, a common and rather schematic classification of different moral theories includes three main types: a) *teleological* and *consequentialist* theories, which lay emphasis on the amount of nonmoral value realized in the states of affairs aimed at or brought about by an action or a rule of action;⁵ b) *deontological* theories, which focus on the intrinsic features of an action or a rule of action, analyzed regardless of their goal or consequences; c) theories of virtue ethics, which seek the criteria of moral assessment in the quality of the character of the agent. This classification is often associated with roughly similar, or parallel distinctions among value-based, act-centered or agent-centered theories, and between opposed views

³ These central concepts could be regarded as interdefinable and thus, taking for example “forbidden” as our most basic concept, we could define “obligatory” and “optional”, respectively, as follows: “An action A is *obligatory*, if and only if failing to perform A is *forbidden*”, and “An action A is optional if and only if performing A is not forbidden and failing to perform A is not forbidden”. See Mark Timmons (ed.), *Conduct and Character*, Belmont: Wadsworth, 1990, 7-9.

⁴ The trouble is that the concept of the supererogatory cannot be easily accommodated by some simple but demanding forms of consequentialism. According to the basic principles of such consequentialism, the action with the best outcome (leading to the maximization of value) ought to be pursued, while any action with a less good outcome should be regarded as wrong and ought to be avoided. For different ways of dealing with this problem, see Peter Vallentyne, “Against maximizing Act Consequentialism”, and Alastair Norcross, “Reasons without Demands: Rethinking Rightness”, in James Dreier (ed.), *Contemporary Debates in Moral Theory*, Oxford: Blackwell, 2006, 21-37, 38-54.

⁵ Of course, there are important differences between teleological and consequentialist approaches that we are not going to take into account at this point.

affirming the “priority of the right over the good”, or “of the good over the right” in our core conception of categories of moral significance.⁶

Now, we are not going to dwell on the abstract metaethical queries in which we usually engage when we proceed to the systematic study of the content and of the interrelations of the above concepts involved in moral evaluation. What we are primarily interested in here is the fact that they do not seem to suffice for the assessment of hard cases in applied ethics. We want to ponder the limits of their applicability and to try to understand how they could be further specified, interpreted, complemented or corrected in order to do justice to the complexity and the depth of our intuitions concerning such cases and the dilemmas to which they give rise. Thus, we could turn to recent philosophical approaches to abortion and to issues pertaining to sexual morality, which suggest guidelines for a more sophisticated practice of moral assessment and may provide us with a first idea of what we are looking for.

3. How to deal with the apparently intractable problem of abortion

I am afraid we have to agree with Margaret Olivia Little that “public discussion of the moral status of abortion is disappointingly crude” and that the “positions staked out and the reasoning proffered seem to reflect little of the subtlety and nuance -not to mention ambivalence- that mark more private reflection on the subject....The debate remains largely polarized”, since “extreme conservatives claim abortion to be the equivalent of murder”, “even as extreme liberals think it devoid of moral import”.

⁶ For a discussion of these issues, see, among others, William Frankena, *Ethics*, 3rd ed., Englewood-Cliffs, 1973, John Rawls, *A Theory of Justice*, Revised Edition, Oxford: Oxford University Press, 1999, 27-28, 394-396, 494-496, Charles Larmore, *The Morals of Modernity*, Cambridge: Cambridge University Press, 1996, 19-26ff. Larmore argues that a recognition of the priority of the good over the right can be found only in conceptions springing from the ancient ethical tradition and not, *pace* Frankena and Rawls, in modern teleological and consequentialist theories. I think that, although, strictly speaking, his analysis is correct, there is a clear sense in which a more or less “thin” account of the good seems to come first in the thinking of consequentialist philosophers, who define rightness in terms of the amount of nonmoral value realized in the world.

Moreover, the trouble is that the “ethical literature has focused almost exclusively on the thinnest moral assessment – on whether and when abortion is morally permissible”.⁷ As Dworkin puts it in his masterly *Life’s Dominion*,

“ So long as the argument is put in those polarized terms, the two sides cannot reason together, because they have nothing to reason, or to be reasonable about. One side thinks that a human fetus is already a moral subject, an unborn child, from the moment of conception. The other thinks that a just-conceived fetus is merely a collection of cells under the command not of a brain but only of a genetic code, no more a child, yet, than a just-fertilized egg is a chicken. Neither side can offer any argument that the other must accept- there is no biological fact waiting to be discovered or crushing moral analogy waiting to be invented that can dispose of the matter. It is a question of primitive conviction, and the most we can ask, of each side, is not understanding of the other, or even respect, but just a pale civility, the kind of civility one might show an incomprehensible but dangerous Martian. If the disagreement really is that stark, there can be no principled compromise but at best only a sullen and fragile standoff, defined by brute political power..”⁸

Indeed, when we examine the main arguments put forth for and against the moral permissibility of abortion, we realize that it is very difficult for the two sides to agree on the key premises that are crucial for the validity and the soundness of their reasoning. It is not only a matter of deciding exactly which premises should be invoked for the arguments to work, but also of how the central concepts employed are to be interpreted. Thus, philosophers who try to settle the issue of the moral status of

⁷ Margaret Olivia Little, “Abortion”, in R.G.Frey and Christopher Heath Wellman, *A Companion to Applied Ethics*, Oxford: Blackwell, 2005, 313-325, 313.

⁸ Ronald Dworkin, *Life’s Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom*, New York: Alfred Knopf, 1993, 10.

the fetus often diverge not only in their judgment of the significance of personhood, but also in their understanding of the notion of personhood, actual and potential.

Most normative theories cannot be of much help at this point. In fact, it soon becomes obvious that consequentialist considerations could be adduced to construct “slippery slope” arguments against abortion, showing that it might lead to morally objectionable infanticide, as well as arguments defending the need to sacrifice the interests of the fetus in order to maximize the happiness of several people affected by the birth of an unwanted child. Similarly, from a deontological point of view, one may develop arguments based on the inalienable right to life of the fetus, described as an “innocent human being”, or, on the contrary, on the autonomy of the mother, which is supposed to take precedence in our evaluation, since she can be clearly regarded as an actual person.⁹

Undoubtedly, there are various plausible ways to expand, to sustain or to criticize the arguments elaborated on both sides, and philosophers have displayed remarkable ingenuity and subtlety in the current debates on the moral assessment of abortion.¹⁰ Nevertheless, those who engage in these debates sometimes fail to acknowledge fully the intricacies of the issue they are trying to settle. According to Little, in order to accommodate our conflicting intuitions and be able to work out a flexible and truly sensitive approach, we have to take into account the intimacy of the gestation process, the peculiarity of the relationship of motherhood and the normative significance of the process of creating a life. Thus, we must stop laying emphasis on questions

⁹ Of course, one could draw on virtue ethics for an alternative approach. See below, section 5a, and note 20.

¹⁰ See, among others, Judith Jarvis Thomson, “A Defense of Abortion”, *Philosophy and Public Affairs* 1 (1971): 47-66, John Finnis, “The Rights and Wrongs of Abortion: A Reply to Judith Thomson”, *Philosophy and Public Affairs* 2 (1973): 117-145, Baruch Brody, *Abortion and the Sanctity of Human Life: A Philosophical View*, Cambridge, Mass.: The MIT Press, 1975, Michael Tooley, *Abortion and Infanticide*, Oxford: Oxford University Press, 1983, Don Marquis, “Why Abortion is Immoral”, *The Journal of Philosophy* 76 (1979): 183-202, Frances Kamm, *Creation and Abortion: A Study in Moral and Legal Philosophy*, New York: Oxford University Press, 1992, David Boonin, *A Defense of Abortion*, Cambridge: Cambridge University Press, 2003.

concerning the rights that could be ascribed to the fetus and the interests and preferences of the mother, which are often believed to override the former. We should pay more attention to the particular circumstances of the cases in which one could opt for abortion. We would thus dwell on the weighing of moral and nonmoral reasons determining the attitude adopted by a woman towards the “salience of her impending relationship” with her potential child, towards her responsiveness to the “burgeoning life in her”, as well as towards the integrity of her identity, which will be crucially affected by her becoming a mother.¹¹

Following Dworkin, we have to recognize the persistence of a sense of intrinsic value of human life as such, which seems to be a secular descendant of the traditional religious conception of the sanctity of life and which underlies our well considered position, whether or not we end up deciding that a particular instance of abortion is morally justified. Liberals who are convinced that abortion should be permitted in most cases, may have come to this conclusion precisely out of respect for the intrinsic value of human life, since they “are especially concerned about the waste of the human contribution to that value, and they believe that the waste of life, measured in frustration rather than mere loss, is very much greater when a teenage mother’s life is wrecked than when an early stage-fetus, in whose life human investment has thus far been negligible, ceases to live... (and) liberal opinion cares more about the lives that people are now leading, lives in earnest, than about the possibility of other lives to come.”¹²

Hence, in our overall account of the moral evaluation of abortion we must take into consideration both the intertwinement of the mother with the fetus and her

¹¹ Little, *op.cit.* 314 -323.

¹² Dworkin, *op.cit.* 99. Analogous considerations apply to euthanasia and assisted suicide, where it is often clearly the case that ending a life may express respect for its dignity and integrity. (*Ibid.* 179-241)

construal of the standards of respectful creation of life, which may imply the need to discontinue a pregnancy. *Prima facie* similar cases may diverge widely in their moral quality depending on the attitudes displayed. Thus, “deciding when it is morally decent to end a pregnancy...is an admixture of settling impersonally or universally authoritative moral requirements, and of discovering and arbitrating – sometimes after agonizing deliberation, sometimes in a decision no less deep for its immediacy – one’s own commitments, identity and defining virtues.” The issue is not resolved by austere contemplation of the value of human life”, but involves “wrestling with the rich meanings of creation, responsibility and kinship”, concerning “one’s integrity”, as well as “what is impersonally obligatory”. In other words, we ought to concentrate on the “important terrain” that lies between the concern for the satisfaction of personal “preferences” on the one hand and the recognition of “universally authoritative moral demands on the other”.¹³

To be sure, once we acknowledge the importance of such intricate and often underestimated factors affecting our views about abortion, we have to admit that we cannot aspire to a rigid and fully determinate procedure of adjudication, leading to unequivocal conclusions. Dworkin warns us about the possibility of serious disagreements in the construal and assessment of particular cases. In his words,

“we have no formulas for actual decision, but only, at best, a schema for understanding the arguments and decisions that we and other people make in real life...We do badly, in understanding and evaluating these decisions and arguments, if we try to match them to procrustean assumptions about fetal personhood or rights. We do better to see them as reflecting more nuanced and individual judgments about how and why human life is sacred and about

¹³ See Little *op.cit.*, 322-324.

which decision of life and death, in all the concrete circumstances most respects what is really important about life”.¹⁴

Thus, “it is not possible for anyone to compose a general theory of abortion, some careful weighing of different kinds or modes of life’s frustration from which particular decisions could be generated to fit every concrete case. On the contrary, we discover what we think about these grave matters not in advance of having to decide on particular occasions, but in the course of and by making them.”¹⁵ Of course, if we endorse such a methodological verdict we shall wonder about the extent to which we may have to revise, if not to relinquish, our traditional theoretical tools.

4. *Seduction is not equivalent to rape and coercion*

We may think that abortion –like euthanasia- is a particularly hard problem that cannot be handled in a satisfactory way by our categories of moral analysis and assessment, mostly because of the peculiarity of decisions concerning the “edges of life”, conception, birth and death. However, when we shift our attention to other areas of applied ethics and examine the concepts employed for the description and moral appraisal of very different decisions, actions or patterns of behavior, we get a similar impression of insufficiency and inadequacy of distinctions.

Here, we shall limit our discussion to questions concerning sexual morality, more particularly, pertaining to the precise characterization and definition of forms of problematic conduct that we want to subject to moral appraisal. We will refer to Sarah Conly’s recent plea for the need to distinguish among rape, coercion and seduction, often presented as equally objectionable by some defenders of extreme feminist positions, who could be regarded as expressing contemporary political correctness.¹⁶

¹⁴ Dworkin, *op.cit.*,100.

¹⁵ *Ibid.*.

¹⁶ See Sarah Conly, “Seduction, Rape and Coercion”, *Ethics* 115 (2004): 96-121.

Conly criticizes arguments to the effect that women could in principle accuse men who seduce them of morally impermissible conduct, or perhaps denounce as extortion the request for sexual intercourse as a condition for continuing an erotic relationship. Even if one disapproves of the character, or of the attitude of a man who is interested only in sex and chooses to leave a relationship if his partner hesitates to sleep with him, or who tries to attract a lover by arousing her emotions, and by thus undercutting her rational decision-making process, one cannot describe such actions as coercion or rape, in so far as they do not involve violence and direct or indirect threats. Strictly speaking, we cannot consider as morally *wrong* the determination to break up an erotic attachment, because of a failure to obtain sexual gratification, even we may judge the person who displays it as shallow or cruel. Moreover, an adult and sane woman may be responsible for succumbing to temptation and is usually able to resist persuasion and to detect the dubious or even deceitful moves of a seducer. To think otherwise would amount to the adoption of objectionable paternalism, or of a moralistic stance implying an unwarranted extension of the applicability of our notions of wrongness and impermissibility.¹⁷

Hence, the study of sexual morality confirms our supposition that we should acknowledge the normative significance of a variety of attitudes and instances of behavior which are not covered by our usual categories of assessment. Conly points out that we should develop a sensitivity to many finer distinctions, falling between “morally unacceptable rape and morally acceptable nonrape”. In her own words,

“We need to expand our conceptual framework and our terminology so that we can capture greater differences than we typically do...We do this in other areas, where we recognize actions of deceit, hurtfulness and damage

¹⁷ Concerning the problem of moralism see the special issue of *The Journal of Applied Philosophy* 22/2 (2005) with articles by Robert Fullinwider, Julia Driver and Benjamin Lovett.

which are not the worst of transgressions and yet which are not morally neutral. We know generally that there is a difference between actions which: a) infringe other's rights (say, stealing), b) don't infringe others's rights but are nonetheless wrong (like failing to give to someone in need), c) are not wrong but which evince bad character (giving to the needy but only to feel your own superiority), and d) are none of these yet may nonetheless be regrettable for their repercussions."¹⁸

Indeed, the above analysis casts light on most hard cases in applied ethics. We cannot extend our survey to analogous problems which emerge in other domains of private and public morality, displaying peculiar features that should be taken into account. To give only a few examples, one could examine questions concerning bioethics and more particularly cloning, euthanasia, terrorism, or business ethics. However, our summary discussion of abortion and of certain aspects of sexual behavior allows us to draw some tentative conclusions providing the basis for further reflection. Its main upshot is that we shall have to qualify substantially our simplistic bipolar conception of moral evaluation, which imposes a clearcut dichotomy between right and wrong, permissible and impermissible. In the last section of this paper, I will outline alternative proposals for a more or less drastic revision of this conception, examine their implications and their general philosophical significance and try to deal with objections to which they may give rise .

5. Suggestions for the revision of our practice of moral assessment

a) The modification of our categories of moral appraisal must begin with the recognition of different "aspects" and "levels" or "degrees" of moral quality. We noted that there are many distinctions and nuances of behavior which are not

¹⁸ Conly, *op.cit.*, 120.

covered by our ordinary conceptions of rightness and wrongness. The radical amendment suggested by advocates of versions of virtue ethics is their substitution with a much richer dimension of goodness and badness. Thus, the narrow concept of “moral” action will be replaced by the broader idea of “ethical” life; our morally acceptable conduct will be defined in terms of attitudes and practical decisions of agents who possess a virtuous personality, while the content of the notion of what counts as morally problematic will be specified through a study of mental states, actions and omissions of people whom we consider as vicious or weak-willed. The phenomenology of the excellent properties of a good person and of the flaws and defects of a bad character shall precede the assessment of types and instances of moral behavior.¹⁹ The complexity of dispositions of character and of the patterns of behavior that they sustain will provide us with the conceptual tools we need in order to distinguish among sensitive, generous, thoughtful, responsible, or frivolous, heartless and callous attitudes towards potential motherhood and the beginning of a life in a woman’s womb, and among honest, proud, deceitful, crude, brutal or sleazy approaches to erotic relationships and ways of managing sexual desire.²⁰

Of course, one could hesitate to endorse an approach based entirely on virtue ethics, probably because of worries about an excessive emphasis on thick, ethical notions, which lack the critical potential of thin, but strong moral norms, or about the

¹⁹ In fact, Aristotle’s original analysis of levels of moral worth, from the negative models of the *akolastos* and the *akratēs* to the more positive character of the *enkratēs*, and the ideal of the *phronimos*, offers plausible directives for moral assessment, despite our inability to endorse some of the central metaphysical or sociological presuppositions of his theory and to seek a contemporary analogue of some of his key positions, such as that of the unity of virtue. See Theodore Scaltsas, *O Chrysous aion tis aretis. Aristoteliki ethiki*, Athina: Alexandria, 1993, 47-69 (in Greek).

²⁰ A philosopher who has attempted to develop such an approach in applied ethics, more particularly concerning the problem of the moral assessment of abortion, is Rosalind Hursthouse. See her *Beginning Lives*, Oxford: Blackwell, 1987, “Virtue Theory and Abortion”, *Philosophy and Public Affairs* 20 (1991): 223-246 and the more general account of virtue ethics in her *On Virtue Ethics*, Oxford: Oxford University Press, 1999.

very meaning of virtue conceived as an objective, evaluative category that is difficult to accommodate within a contemporary framework.²¹

b) A different way to discern significant distinctions and to be able to invoke them in the course of moral appraisal is by giving up general principles and by adopting a thorough-going particularism. Particularistic accounts of the morally salient features of an action or of a state of affairs, make it possible to avoid the simplifications of traditional normative theories. Realist versions of particularism usually take the form of an intuitionistic act-deontology which eventually leads to determinate conclusions about what ought to be done, but allows us to grasp a variety of normative reasons that must be considered as a whole and assessed as contributing to the value of one or another course of action. Particularism urges us to pay attention to details and to weigh the role of multiple factors. In its less extreme variants it doesn't exclude the use of certain generalizations, but the directives such generalizations entail are never codifiable and cannot take the form of a rigid pattern of judgment and action.²²

The trouble is that many philosophers refuse to espouse the consistent particularist option, in so far as it doesn't leave enough room for principles which are not merely *ad hoc* and for rules that aren't simple rules of thumb. They may find mysterious any appeal to a faculty of intuition or perception revealing the concrete moral features of the character of an agent or of his acts and believe that principles and rules play a

²¹ See above, note 1. For a critical discussion of some of the difficulties of contemporary virtue ethics, see, Marcia Baron, Philip Pettit, Michael Slote (eds.), *Three Methods of Ethics*, Oxford: Blackwell, 1997. Slote defends a version of virtue ethics, while Pettit and Baron put forth variants of consequentialism and Kantian ethics. See also Roger Crisp (ed.), *How Should One Live? Essays on the Virtues*, Oxford: Oxford University Press, 1996 and Julia Annas, "Being Virtuous and Doing the Right Thing", *Proceedings and Addresses of the American Philosophical Association*, vol. 78, issue 2 (November 2004): 61-76.

²² For a more radical kind of particularism, see Jonathan Dancy, *Moral Reasons*, Oxford: Blackwell, 1993, and *Ethics without Principles*, Oxford: Oxford University Press, 2004. For a more moderate species, see Margaret Olivia Little, "Moral Generalities Revisited", in Brad Hooker, Margaret Olivia Little (eds.), *Moral Particularism*, Oxford: Clarendon Press, 2000, 276-304

substantive role in moral thinking and should not be jettisoned in any way.²³ Without the employment of general moral principles, and without the support of some more or less stable and non relative standards we could lapse into a contextualism which would threaten the objectivity of our judgments.

c) Now, one could aim at a methodological model which would combine the insights of the proposals considered so far with the recognition of the need for the use of principles at some point. Thus, we could acknowledge a plurality of levels of assessment and we would try to elaborate the appropriate conceptual tools for each level, corresponding to a different aspect or “layer” of moral reality. This means that we wouldn’t reject our elementary categories of rightness and wrongness. We would rather be ready to enrich or supplement them by concepts and criteria which would hopefully allow us to explore a variety of normative and evaluative perspectives. We would appeal to a variety of principles, values and virtues.

Hence, we would not deny the urgency of questions about permissibility and impermissibility, while agreeing that such questions do not exhaust the realm of the moral and of the ethical, - if we insist on using the two terms in order to distinguish between the domains of applicability, respectively, of thin and thick concepts.²⁴ We could follow Conly in recognizing the distinctions among different kinds of wrongness, badness and moral defects. We could also distinguish among different forms of moral worth, involving responsiveness to normative reasons and sensitivity to value, and, conversely, detect instances of what Roderick Chisholm called *offence* or “permissive ill-doing” and some philosophers have described as *suberogatory*, -the

²³ See Hooker and Little, *op.cit.*

²⁴ For such an approach concerning the issue of abortion, see Boonin, *op.cit.*, 5 – 9, and Hursthouse, “Virtue Theory and Abortion”, *op.cit.*, 235. Of course there are important differences in emphasis and in intent which should be noted in their respective writings.

opposite of the *supererogatory*- that is, what may not be morally forbidden, but is still bad.²⁵ Indeed, we could scrutinize particular attitudes, desires, motives in order to elucidate the way we develop and we express them and understand exactly how they affect our behavior towards others.²⁶ Moreover, we could come to consider our basic categories as “scalar” notions, in other words, as concepts that allow of degrees.²⁷ Thus, we might describe an action as permissible “to a certain degree”, or as “more or less” wrong than another, and accept certain rankings, although, most probably, we would be unable to agree on the exact scales and measures that we would use in order to quantify the properties we are talking about.²⁸ We could say, for example, that a particular case of abortion was more morally justified than another, or that an instance of seduction *s*, however permissible, was morally quite blameworthy, though less blameworthy than another instance of deceitful seduction *d*.

We would feel free to draw on a variety of deontological and consequentialist principles and arguments, without seeking a particular ordering and a strict, absolute construal. Thick virtue concepts would also be employed, in our ascription of moral worth to the character involved, independently of the assessment of the permissibility of the action performed. As we saw in our discussion of Dworkin’s views on abortion, we should give up the ambition to construct a theory, entailing a formula for the unequivocal adjudication of all instances of abortion. This doesn’t mean that the

²⁵ See, for example, Roderick Chisholm, “Supererogation and Offence: A Conceptual Scheme for Ethics”, *Ratio* V (1963): 1-14 and Julia Driver, “The Suberogatory”, *Australasian Journal of Philosophy* 70 (1992): 286-295, quoted in Kelly Sorensen, “The Paradox of Moral Worth”, *The Journal of Philosophy* 101, (2004): 465-483.

²⁶ For fascinating work on these issues, see Nomy Arpaly, “Moral Worth”, *The Journal of Philosophy* 99 (2002): 223-245 and Sorensen, *op.cit.*

²⁷ For a defense of the idea of a “scalar” morality, see, James Dreier, “Introduction”, in Dreier, *op.cit.*, x-xxiv, xiii.

²⁸ The problem would be analogous to that of measuring value and utility, as proposed by many utilitarians interested in maximizing the value produced by an action. Here, however, there is no question of trying to maximize.

appeal to systematic theorizing couldn't help to bring to light and to test some of our deepest intuitions, such as the notion of the intrinsic value or sacredness of life.²⁹

6. Conclusion - Further Questions

Undoubtedly, the above suggestions point to the possibility of a significant improvement of our practice of moral assessment. However, there are still many questions that remain unanswered and cannot be properly addressed within the limits of this paper. To begin with, one may wonder whether the mixed or hybrid methodological model we presented as preferable to more austere and homogeneous alternatives will turn out to be more than just a loose set of guidelines. To be sure, we didn't aspire to develop a unified theory of moral assessment, which might turn out to be incoherent. Nevertheless, we should ask ourselves whether our account of a flexible and at the same time theoretically informed schema for the appraisal of actions in applied ethics goes far beyond casuistry.³⁰ In fact, as we remarked in our introduction, Dragona-Monachou argues that our philosophical work in this area should not amount to mere casuistry.

Now, the contextualization of our moral judgments that we consider as unavoidable should not compromise their objectivity. However, if we have to take into account the character of the agents involved, which influences their choices, and we lack a substantive theory of virtue, entailing more or less objective criteria of

²⁹ On this, see Dworkin's impressive realistic comparison of the recognition of our idea of the intrinsic value of life, playing an important role in our moral thinking, to the discovery by scientists of a planet, causing the perturbation of an orbit. Dworkin, *op.cit.*, 68-69. For a general critical discussion of Dworkin's positions, see Frances Kamm, "Ronald Dworkin's View on Abortion and Assisted Suicide", in Justine Burley (ed.), *Dworkin and his Critics, with Replies by Dworkin*, Oxford: Blackwell, 2004, 218-240, and Dworkin's reply, *ibid.*, 370-373. See also Ronald Dworkin's response to critics, in "the Idea of the Sacred", in Ben Rogers (ed.), *Is Nothing Sacred?*, London: Routledge, 2004, 138-143.

³⁰ For a defense of casuistry in applied ethics, which involves a predominantly "bottom-up", rather than a "top-down" approach—as implied misleadingly by the term "applied ethics", and for some interesting examples, see Hugo Adam Bedau, *Making Mortal Choices: Three exercises in Moral Casuistry*, Oxford, New York: Oxford University Press, 1997 and A.I. Jonsen, S.E. Toulmin, *The Abuse of Casuistry: A History of Moral Reasoning*, Berkeley: University of California Press, 1988.

quality of character, we will probably have to resort to aesthetic preferences and existential commitments that are admittedly much more subjective than we may want to allow. Indeed, Dworkin's approach to abortion and euthanasia, and Little's analysis of the factors conferring the same positive or negative value to opposite decisions, remind us of Jean Paul Sartre's emphasis on the stance of agents who may make opposite decisions, but should be judged similarly, depending on whether they display the right attitude, namely a commitment to freedom.³¹

Finally, an important issue that we cannot bypass in the context of this discussion pertains to the purpose of our moral assessment of alternative options and positions, concerning the hard cases we referred to, but also most cases in applied ethics. Indeed, we often tend to adopt a rather simple account of what we are asked to assess, precisely because what seems to matter is the real course of action we shall have to follow. Our moral judgments are supposed to have a *practical* significance in so far as they authorize and prompt particular decisions to act or not to act in a certain way, e.g. to proceed to an abortion or to assist in the suicide of a terminally ill patient. More generally, and to the extent that there is a real connection between law and politics on the one hand and morality on the other, our conclusions about moral rightness or wrongness, permissibility or impermissibility, may inform our resolution to support or implement a certain interpretation of laws for or against abortion -or euthanasia-. Of course, when we move to the area of law we shall have to abandon or modify some of the distinctions we invoke when we engage in moral assessment. Indeed, both legislation and juridical practice have to rely on careful and fine

³¹ The examples given by Sartre are Maggie Tulliver in George Eliot's *The Mill on the Floss*, who sacrifices her love, in the name of human solidarity, for an insignificant girl engaged with the man she wanted herself, and Sanseverina, in Stendhal's *The Charterhouse of Parma*, who is ready to sacrifice the girl who was going to be married with the man she loves in order to fulfill her passion; both presumably make a genuinely free decision. See Jean-Paul Sartre, "Existentialism is a Humanism", in Richard Gill and Ernest Sherman (eds.), *The Fabric of Existentialism*, Englewood Cliffs: Prentice Hall, 1973, 519-533, 531-532.

distinctions which to a certain extent mirror analogous distinctions in ethics. However, the problems we touched upon in our analysis indicate that in most cases ethical considerations cover a broader and richer spectrum of evaluative and normative features which should be respected if we want our acts of appraisal to be truly fine-grained, regardless of their more or less immediate practical implications.

What is at stake in applied ethics is perhaps much more than the quest for specific solutions and for direct decisions, although, as we just noted, the significance of the latter should not be underestimated. Thus, we are interested in controversies involving the moral evaluation of states of affairs, actions and omissions, as well as of the worth of persons, not only because they offer us useful guidelines for our conduct, but also in so far as they can provide us with insight into the complexity of the circumstances for the attribution of praise or blame, and into the salient aspects of our ethical life. This, I submit, is a conclusion that we should consider as crucial for the orientation of our practical philosophical inquiry as a whole.

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