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BETWEEN RELATIVISM AND IMPERIALISM: NAVIGATING MORAL DIVERSITY IN CROSS-CULTURAL BIOETHICS

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ABSTRACT
The need for explicit theoretical reflection on cross-cultural bioethics continues to grow as the spread of communication technologies and increased human migration has made interactions between medical professionals and patients from different cultural backgrounds much more common. I claim that this need presents us with the following dilemma. On the one hand, we do not want to operate according to an imperialist ethical framework that denies and silences the legitimacy of cultural values other than our own. On the other hand, we do not want to backslide into a form of cultural relativism that is unable to critically appraise cultural practices that are harmful, unjust, or oppressive. I examine two prominent attempts – the principlism of Tom Beauchamp and James Childress and the Contractarianism of Robert Baker – to frame cross-cultural bioethics between these two extremes and argue that both approaches have significant flaws. The principlist approach fails to provide a non-question begging way to identify cross-cultural norms that does not already assume the universal legitimacy of moral principles dominant in North American society. Baker's contractarianism cannot grapple with the realities of political power imbalances that often characterize cross-cultural moral disputes. I suggest that a naturalized feminist framework, though not free of its own theoretical difficulties, provides the best alternative for approaching moral diversity respectfully and critically.

INTRODUCTION

Robert Baker claims that developing 'a theoretical framework for international bioethics [is] the central problem confronting bioethical theory in the twenty-first century'.[1] One pressing issue for creating such a framework concerns how medical professionals and patients can cooperate to achieve valued goals in the context of widely different understandings of health care and morality. The trouble might present us with a dilemma. On the one hand, we want to avoid the Scylla of cultural imperialism. Cultural imperialism, identified by Iris Young as one of the five faces of oppression, involves projecting the culture and values of a dominant group as universally applicable and held by all individuals.[2] On the other hand, we do not want to fall into the Charybdis of moral relativism. Moral relativism is the claim that the truth or justification of a moral claim is relative to an individual or group. If we stay clear of even the semblance of imposing our values on others, we risk losing any normative bite we can give to criticisms of oppressive practices. If we try to ground moral criticisms in robust universal moral norms, we face being accused of projecting western values on to the non-western world.

Two prominent frameworks for cross-cultural bioethics, I argue, crash the ship on the shoals of Scylla or entrap us in the whirlpool of Charybdis. Tom Beauchamp and James Childress's principlist approach

[1] R. Baker. Negotiating International Bioethics: A Response to Tom Beauchamp and Ruth Macklin. *Kennedy Inst Ethics J* 1998; 8: 423– 453: 445.

[2] I.M. Young. 1990. *Justice and the Politics of Difference*. Princeton, N.J: Princeton University Press.

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does not adequately account for the reality of moral diversity among different but genuinely moral forms of life, while Robert Baker's contractarianism sacrifices too much of the normative authority of morality to the fragile results of inter-group negotiations, thus leaving open the possibility that norms imposed by force are to count as legitimately moral norms. In this essay I lay out criticisms of both of these frameworks to suggest that further research into alternative frameworks is needed. I tentatively propose that a naturalized moral framework might be better suited to serve as our Odysseus, navigating us between imperialism and relativism without sacrificing (though some sacrifice may be unavoidable) too much in the way of what we want from cross-cultural bioethics. Though I do not fully develop this framework here, I sketch in the conclusion of this essay the advantages it has for cross-cultural bioethics, in that it gives proper place to moral difference without reducing it to differences in subjective preferences.

BEAUCHAMP AND CHILDRESS'S PRINCIPLISM

The pluralistic principlism of Beauchamp and Childress begins with the observation that, although there is disagreement over abstract theoretical foundations for ethics, there is widespread agreement on mid-level principles that leave room for specification and judgment in application. The authors contend that this convergence on a shared set of basic moral norms derives from the common morality,[3] defined as 'the set of universal norms shared by all persons committed to morality'.[4] Since deep disagreement remains concerning which ethical theory is correct, bioethics will better aid practical decision-making and policy development if it uses the shared fund of the common morality to ground ethical analyses.[5] Beauchamp and Childress derive from this common morality an analytical framework of four mid-level principles – autonomy, beneficence, non-maleficence, and justice.[6] These principles are not ranked in order of importance and do come into conflict in many situations. It is the province of moral judgment to discern how to resolve conflicts among principles in individual cases through the processes of application, specification, and balancing.

Beauchamp and Childress claim that this common morality version of principlism can account for cross-cultural bioethics as a rational enterprise. In response to criticisms from Robert Baker that his account is Western-centric, Beauchamp claims that Childress and he view the convergence on mid-level principles to be a cross-cultural phenomenon. The convergence around mid-level principles is not specific to a particular society or time but rather extends across cultures to all rational human beings.[7] This view is evident in the later editions of *Principles of Biomedical Ethics* that explicitly use the universal common morality to serve as the foundation for principlism. The common morality's authority legitimately binds all rational persons, and any culturally particular norm cannot be justified if it contradicts the common morality.[8]

It is important to keep clear a distinction in how Beauchamp and Childress's extension of the common morality can be read: as a normative claim, as a descriptive claim, or as both. The normative version amounts to the claim that all persons regardless of cultural upbringing *ought* to be guided by the principles of common morality. The descriptive version claims that all morally serious persons regardless of cultural upbringing *do,* in fact, hold to the principles of the common morality. Robert Baker deems this to be a rejection of what he calls 'the difference claim' – that there are fundamental moral differences between cultures and among individuals within cultures. Beauchamp and Childress hold both the descriptive and normative versions to be true.

Beauchamp notes: 'Universal principles by their nature must be *specified* to suit the needs of particular contexts and to overcome their intrinsic lack of specific action-guiding content.'[9] That is, universal principles do not contain the content of specific considerations that can serve as particular reasons for why an action can be characterized correctly as a violation of a universal principle. For example, in order to determine whether paternalistic actions taken by a doctor violate a patient's autonomy, one needs specific information relating to the patient's mental state. Even after having established that the patient's compromised mental state warrants paternalistic action, information about the patient's history, stated preferences, and future recovery prospects are needed to guide the appropriate paternalistic response.

The same processes apply in the cross-cultural setting. The mid-level principlist approach is culturally flexible in that it allows culturally specific considerations to give action-guiding content to these universal principles. When connecting the principle of respect for autonomy to particular judgments about what respect for autonomy means for this patient, the patient's personal and cultural identity helps shape those judgments. Respecting the autonomy of specific patients may look differently depending on the cultural background of the individual, but all of these different cases must still be consistent with

[3] T.L. Beauchamp & J.F. Childress. 2013. *Principles of Biomedical Ethics*, 7th ed. New York: Oxford University Press: 383–384.
[4] Ibid: 3.
[5] Ibid: 411–412.
[6] Ibid: 13.
[7] T.L. Beauchamp. The Mettle of Moral Fundamentalism; A Reply to Robert Baker. *Kennedy Inst Ethics J* 1998; 8: 389–400: 393–394.
[8] Beauchamp & Childress, *op. cit.* note 6, pp. 4–5.
[9] Beauchamp, *op. cit.* note 7, p. 396.

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a common understanding of 'autonomy' and 'respect.' If the patient identifies with a cultural upbringing that interprets autonomous decision making as a process that necessarily includes input and deliberations from family members, then the appropriate action may include coming to a shared decision with the patient's family about what is best to do. This does not negate the critical stance the doctor or the patient might take with respect to others' moral stances regarding autonomy. There are still incorrect applications of the principle. However, it does recognize that there may be more than one equally legitimate application of the principle to a given kind of situation, and any rational disagreement about application still takes as its shared Archimedean point the same universal principle.

There is an important relation of priority here. Beauchamp uses the language of universal and particular to spell out this priority relation.[10] Universal morality contains the subset of moral beliefs of a culture that reflect the common morality of all morally committed persons, while particular morality represents the beliefs and attitudes of a culture that do not directly reflect the principles of common morality. Particular morality can be normatively binding for a particular group of people, while not extending to everybody everywhere. Universal morality, on the other hand, represents the core of morality that is binding for *all* individuals. The content of the particular moralities must not be in conflict with universal morality if such content is to be to be binding. One might opt out of the dictates of the particular morality of one's culture if one finds that on reflection such dictates are not justified interpretations of the universal morality, but one cannot similarly opt out of universal morality.

This provides us with a picture of the model of rationality operative in Beauchamp and Childress's framework. It begins with the following question: Is practice X or belief Y consistent with the mid-level principles of the common morality, however garbed they are in their particular cultural makeup? Beauchamp writes:

> For different cultures, groups, and individuals, specification yields different norms; and many such differences are acceptable – that is, alternative specifications are coherent with the fundamental principles that form the core of morality itself.[11]

Two societies may decide to allocate medical resources on the basis of different distributive policies, but this does not mean that only one specific procedure must be correct, since both procedures may be consistent with the principle of justice. Rational justification for the procedure must proceed via reference to the content of the common morality, and such content can be consistent with more than one alternative for how such a principle is realized in the world.

One might initially question the thesis that all morally serious persons, regardless of time and place, subscribe to the content of the common morality. The truth of this claim depends on whether or not we can identify who counts as a morally serious person independent of our conception of the content of the common morality. Otherwise, it would seem as if Beauchamp and Childress are begging the question by relying on an understanding of the morally serious person that already assumes the truth of the conclusion to be defended. If we understand 'morally serious persons' to simply mean all persons who sincerely hold some beliefs they claim to be moral beliefs, then defense of the claim seems impossible in light of numerous counter-examples. The candidate moral beliefs for inclusion in the common morality that Beauchamp explicitly recognizes – the obligation to keep your promises, the impermissibility of killing innocent people, and respect for rights of others – are all vulnerable to counter-examples of people whose statements and actions suggest they do not hold to these beliefs.[12] Infanticide has been a widely accepted practice in many different cultures throughout much of human history. The content and even legitimacy of the notion of rights has by no means been agreed upon by all serious persons. Beauchamp and Childress might try to defend this claim by generalizing the content of the common morality. This move, however, strengthens their position with respect to counterexamples only by opening up their position to charges of vacuity. If the common morality thesis states only that all morally serious persons operate according to some notion of justice, autonomy, and beneficence, then it does not say anything very distinctive, given that radically opposed specifications of these moral concepts could be equally legitimate. It is not clear how one might define 'morally serious person' in a way that (a.) does not already take the existence of a common morality for granted, (b.) suitably restricts the reference class to identify shared moral beliefs, and (c.) does not identify only shared beliefs too vacuous to be distinctive.[13]

[10] Beauchamp & Childress, *op. cit.* note 8, p. 5.

[11] Beauchamp, *op. cit.* note 9, p. 397.

[12] Ibid: 394.

[13] Beauchamp and Childress have also attempted to reply to these kinds of critiques by claiming that the content of the common morality never changes; only the scope of the common morality does (T.L. Beauchamp and J.F. Childress. 2009. *Principles of Biomedical Ethics*, 6th ed. New York: Oxford University Press: 390). That is to say, societies can differ on questions of who or what has moral status while still sharing norms of the common morality. Though I doubt that all of the counter-examples to the common morality can be explained away as disagreement over the scope of morality, K.E. Hodges and D.P. Sulmasy provide a compelling critique as to why this move, even if successful in discounting the counter-examples, causes serious problems for maintaining any substantial account of justice as part of the common morality (K.E. Hodges & D.P. Sulmasy. Moral Status, Justice, and the

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Whatever the status of the descriptive claim, Beauchamp and Childress might claim, it has no bearing on the use of the idea of common morality to ground normative judgments of the practices of other cultures because the normative claim does not rest on an illegitimate derivation of an ought-claim from an is-claim. This response does not clear up all of the worries. For one's framework to be based on a conception of the common morality, one would have to know what the content of the common morality is. The empirical thesis, were it to be true, could provide a way for figuring out what is included in the content of the common morality and, therefore, what moral principles are universally binding. We would just look to what is, in fact, accepted by all morally serious persons. However, we have ruled out this move because of problems of independently formulating, apart from the object of our investigation, what made an individual morally serious. Our other option for identifying universally binding moral principles would be to revert back to relying on one of the extant theories of ethics; however, taking this route implies that the idea of the 'common morality' plays no real role in our moral reflection. Furthermore, it would jettison the initial motive for abandoning abstract ethical theory in favor of a common morality approach.

Beauchamp and Childress go on to claim that 'it is an institutional fact of morality, not merely our view of it, that it contains fundamental precepts'.[14] They do not, however, explain what they mean by an institutional fact. A precise analysis of this concept matters in this instance because some influential theories of institutions would undercut Beauchamp and Childress's claim that morality's institutional status underwrites its universal status. If we understand institutional facts according to John Searle's influential account, institutional facts rely on the collective acceptance of a social group for their truth conditions.[15] It is an institutional fact that US dollars have a certain exchange value and are legal tender for all debts public and private, but it is true only insofar as we intend them to function in such a manner. There is nothing that intrinsically connects this social function to the material object of the dollar. Any old material object, even bits of digital information, could serve just as well. To say that the universality of the common morality is an institutional fact, then, implies that there exist universal moral precepts because some group collectively accepts that certain prescriptions are to function as universal fundamental precepts and that nearly any old prescription could serve that function were it to be collectively intended. Again, this seems to make the universal normative legitimacy claim rely on the descriptive universal claim. If all people do not as a matter of fact intend certain prescriptions to function as universal prescripts, then it is false that they do function as such.[16]

ROBERT BAKER'S CONTRACTARIANISM

Baker has similar reservations about Beauchamp and Childress's approach. He sums them up as follows:

> (1) the difference claim cannot be explained away; there are fundamental differences in moral principles and values both between and within cultures; (2) any attempt to obviate these cultural or interpretive differences by postulating an acceptance of common or universal principles at some more 'basic' or 'fundamental' level is ultimately question-begging; (3) international biomedical ethics must rest on a theoretical framework that can bridge perspectives even as it justifies genuine trans-cultural and trans-temporal moral judgments.[17]

In effect, Baker criticizes the fundamentalism that underlies Beauchamp and Childress's position by arguing that moral disagreement among different cultural groups goes deeper than any purported moral commonalities. As I have shown, the claim that there is a universally binding common morality cannot be defended by simply postulating the existence of fundamental precepts that are independent of actual values held by people. For that reason, Baker argues that international bioethics needs a theoretical framework that can respect the diversity of moral values without thereby giving up on objective trans-cultural justifications. Beauchamp and Childress steered us too close to Scylla. Baker intends to steer us away from those rocks of imperialism, but does he take us too close to the whirlpool of relativism?

Common Morality: Challenges for the Principlist Account of Moral Change. *Kennedy Inst Ethics J* 2013; 23: 275–296.

[14] Beauchamp & Childress, *op. cit.* note 10, p. 4.

[15] J.R. Searle. 1995. *The Construction of Social Reality*. New York: Free Press; Searle's theory is by no means the only theory of institutions, nor is the claim that collective acceptance is necessary for the existence of institutional facts an uncontroversial claim. My aim is to indicate that Beauchamp & Childress would need to provide a particular conception of institutions in order to adequately situate the claim about the institutional nature of morality as a reason in favor of the universality of morality.

[16] It is not the case that the objective validity of all institutional facts relies on universal acceptance. The existence of some, even a sizable contingent, of people who believe that US dollars ceased to have value once Nixon took the dollar off the gold standard does not render false that US dollars have a certain value. The dollar still serves the particular social function attributed to it. The objective validity of the institutional fact that morality is universally binding, however, would rely on universal acceptance. Individuals, groups, and nations can bind themselves to the directives of universal human rights. This implies that they respect the human rights of all individuals, but this does not imply that all individuals bind themselves to the same directives.

[17] R. Baker. A Theory of International Bioethics: Multiculturalism, Postmodernism, and the Bankruptcy of Fundamentalism. *Kennedy Inst Ethics J* 1998; 8: 201–231: 225.

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Baker proposes a contractarian framework. Central to this framework is the view that conflict over non-negotiable values is intractable because common moral norms do not exist until the parties in the conflict consent to them. The conflict arises because the interests of one party can be fully satisfied only by sacrificing the interests of the other. Cross-cultural bioethical discussion should help identify the problems that arise between groups with different values in order to construct a mutually acceptable contract that is meant to enable both parties to preserve their non-negotiable values without falling into all-out war. Since the moral legitimacy of a norm arises from its acceptance by the individual who guides her practice by it, the contract resulting from negotiations is a moral contract that creates authoritative shared norms.[18]

Baker illustrates this framework through a fanciful example about a conflict between puritans and nudists concerning the use of a lake beach. Both groups deeply value the activities of sunbathing on the beach and swimming in the lake. However, while it is essential for the nudists to be nude while sunbathing and swimming in order to realize this value, the puritans would be deeply offended if they were subjected to the sight of such licentiousness. Likewise, the nudists would suffer a deep offense if subjected to the vehement disapproval of their way of life by the puritans. Baker imagines cross-cultural moral dispute to be a matter of similar intractable value conflicts, where neither side wants to give up its non-negotiable values to accommodate the other. The solution, then, is not to force one group to completely give up what they cherish, but rather to develop a mutually acceptable agreement where both sides give up some but not all of what they cherish in order to preserve the peace needed to enjoy these common goods. Coming to no agreement translates into no peace between the groups. No peace means no one is able to realize their sunbathing values without constant fear of reprisal. Preserving the ability to realize their sunbathing values, albeit in a limited context, is better than not being able to realize those values at all. Thus, the nudists and the puritans will agree to a system of norms that allow the nudists the use of the beach on Wednesdays, Fridays, and Sundays, while the puritans use the beach on Tuesdays, Thursdays, and Saturdays. Mondays are apportioned to either group on alternate weeks.

Unlike Beauchamp and Childress's principlism, this framework does not reject the difference claim but, rather, embraces it. Furthermore, so Baker claims, it does not postulate any shared fundamental moral precepts to guide the resolution of the conflict. Rather, it proceeds from mutual self-interest in resolving the conflict without mutual destruction. Finally, it puts cross-cultural bioethical justification on a firm rational footing because now justification can proceed by identifying the possible solutions to the conflict that preserve as much as possible the ability to pursue non-negotiable values for both sides.

Yet, this framework is not without its own serious flaws. First and foremost, this approach is an idealized theory which presupposes that all parties to the conflict and the negotiation of a common set of norms are roughly equal in power and negotiating skill. This idealizing presupposition weakens the framework's ability to guide action in cross-cultural conflicts because the prescriptions that issue from it presume a distorted version of the actual reality of cross-cultural conflicts. There are long histories of oppression of large groups of people who have been systematically denied an equal place of power at bargaining tables. Their interests have not been adequately voiced or given protection.[19] For these reasons, a contractarian framework for resolving cross-cultural ethical disputes in our world would invariably favor the interests and values of the dominant groups of each society and marginalize the interests of the oppressed groups.

My criticism rests heavily on the work of feminist ethicists and post-colonial and critical race theorists who have challenged the presumption that the tradition of philosophical ethics represents morality from a non-biased point of view. Charles Mills, drawing explicitly on Onora O'Neill's work, develops a clear explanation of how ideal theory in ethics works.[20] According to Mills, the most significant notion of 'ideal' here is the notion of 'ideal-as-idealized-model.' An idealized model of a phenomenon is a model of what that phenomenon *should* be like. Moral theories inevitably rely on some models of how social institutions work, how moral agents function, and how human rationality operates. An idealizing moral theory will take as its social and psychological models certain idealized pictures of how *ideally* those social institutions, moral agents, and rationality would function and base its prescriptive conclusions for behavior on the

[18] R. Baker. A Theory of International Bioethics: The Negotiable and the Non-Negotiable. *Kennedy Inst Ethics J* 1998; 8: 233–273.

[19] Ruth Macklin advances a similar critique against Baker by citing examples where oppressive practices are justified because they are endorsed by the distinct local values of a community. For example, she cites theorists like Xiaorong Li who have specifically challenged the assertion of 'Asian values' as primarily a move made by government leaders to shirk responsibilities for protecting human rights (R. Macklin. A Defense of Fundamental Principles and Human Rights: A Reply to Robert Baker. *Kennedy Inst Ethics J* 1998; 8: 403–421). I aim my critique at the idealized features of Baker's theory that make it and similarly idealized theories vulnerable to these more specific charges of helping to rationalize thinly veiled defenses of human rights violations.

[20] O.S. O'Neill. 1993. Justice, Gender, and International Boundaries. In *The Quality of Life*. M. Nussbaum and A. Sen, eds. Oxford: Clarendon Press; O.S. O'Neill. Abstraction, Idealization and Ideology in Ethics. *Philosophy* 1987; 22: 55–69.

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theorized behavior of ideal agents in ideal situations.[21] All normative ethical reflection presupposes, implicitly or explicitly, ethical ideals in an obvious sense. Yet, problems emerge when those ideals constitute the models on the basis of which the prescriptive judgments of the theory are issued.

One of the primary emergent problems for idealizing theory identified by Mills is an inability to theorize oppression. The existence or workings of oppression will not be an integral part of idealized moral theory because oppression will not be included in a model of idealized social institutions. Yet, we live in a society where oppression exists and shapes social reality for all of us; insofar as moral frameworks are aimed at guiding action, they ought to guide us to act in response to and in light of oppressive social conditions. But because idealized theory orients action-guiding prescriptions in terms of ideal agents in ideal conditions, those prescriptions will not be directly relevant for non-ideal agents in non-ideal conditions.

Let me illustrate this in terms of Baker's own hypothetical example. What if the puritans are a small unarmed group, while the nudists are a large well-ordered and well-armed group of ex-military officers? What, in Baker's account, stops them from resolving the dispute through the use of force? Nothing, as far as I can tell, for Baker neither presumes any shared moral backgrounds that might constrain a group from the use of force, nor provides the intellectual resources for explaining why the oppression of the puritans would be unjust. Enjoining the puritans to participate in moral negotiations would be bad advice for the puritans, who would likely get nothing out of it in the way of protecting their non-negotiable values. Part of the idealized background for social contract theory, including Baker's application of it to cross-cultural ethics, is the presupposition of a rough equality in power among those who are getting together to contract. This rough equality in power ensures that it would be advantageous for either side to resolve issues through negotiation rather than force because mutual destruction through physical conflict would be much worse. But where rough equality does not obtain, the probable outcomes of moral negotiations will cohere much less closely with our considered moral intuitions of just outcomes.

In our current social reality, the kinds of conflicts that characterize vexing problems in cross-cultural bioethics are not often conflicts between groups or individuals of roughly equal power. Consider the story of the Lee family in California, as reported by Anne Fadiman in *The Spirit Catches You and You Fall Down*.[22] The story centers on the Lees, a Hmong family that immigrated to the United States. Their daughter, Lia, suffers from recurrent epileptic fits. Because of a series of misunderstandings and disagreements between the Lees and Lia's doctors over what counts as appropriate medical treatment for epilepsy, what causes epilepsy, and what social role individuals with epilepsy might play, Lia's condition eventually results in a grand mal seizure that effectively destroys her higher brain functions. The specifics of the situation, as is the case with many situations, are much too complex to easily assign responsibility for this tragic outcome, but it would be a mistake to ignore the political context in which it occurred. A very large imbalance in political power exists between these two sides, and the model that Baker provides relies on a picture of social reality that is not adequate to the complex differentiated reality surrounding the Lee family and their doctors. An adequate picture would require, among other things, details of the history of mistrust that emerged between Hmong refugees and US public authorities as a result of the US military involvement in Laos and the subsequent immigration of Hmong refugees to western countries. Once one adds these features, the story can no longer be seen as a failure of one or both parties to engage in a process of moral negotiation. It is certainly not clear that it would have been rational for the Lees to negotiate over their daughters' health, given the context of a history of mistrust. Contractarianism might be a workable framework for ideal agents in an ideal world but not for real agents already enmeshed in a global system marked by oppression and inequality.

Yet, Baker thinks that his form of contractarianism can avoid these charges of idealized theory while still retaining resources for condemning human rights violations. However, this attempt to save contractarianism from itself leads him back to a fundamentalist framework he seeks to reject. He appeals to the view that a norm gains legitimate moral force in virtue of its acceptance by the individual bounded by it. Thus, human rights violations cannot be morally justified because the norms that sanction them are not accepted by the victims of these violations.[23] The problem is that this response merely smuggles in what functions as a fundamental norm at the level of procedure. Procedural norms are not so different as to somehow distinguish what Baker does from what Beauchamp's fundamentalism does because a procedural norm appears arbitrary if not explained in terms of a prior substantive value. The claim that the assent of the governed is necessary for a norm to be actually authoritative only makes sense in light of a prior moral commitment to the autonomy of the individual. Such a commitment is no more indubitable than any other moral principle that is meant to ground a complete moral framework. Were such a commitment to be capable of

[21] C.W. Mills. 'Ideal Theory' as Ideology. *Hypatia* 2005; 20: 165–184.

[22] A. Fadiman. 1997. *The Spirit Catches You and You Fall down: a Hmong Child, Her American Doctors, and the Collision of Two Cultures*. New York: Farrar, Strauss, and Giroux.

[23] Baker, *op. cit.* note 1, p. 440.

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actually making possible the kinds of moral negotiations that Baker has in mind, it would already have to be present in the shared background assumptions of both participant groups. Again, nothing else in Baker's account seems to necessarily constrain either the puritans or the nudists from using force to secure their values.

Baker might appeal to rational self-interest here. Since he wants to maintain the view that morality is fundamentally a collaborative process governed by shared norms, a final appeal to rational self-interest may not be to his liking. Since other contractarians have done so, it will be instructive to see how this tact plays out. This appeal claims that what makes the negotiation process possible is not that there is a pre-existing shared commitment to respecting autonomy, but rather that self-interest is best served on both sides via negotiation. Yet, as the previous criticism aimed to establish, this appeal only works if certain idealized conditions of equality are presumed. Since these conditions do not apply to our world, the conclusions drawn from them would not apply either. Secondly, if the negotiation of shared norms rested on the basis of self-interest, it is not clear why we would be entitled to call those norms *moral* unless we presume it morally valuable to promote self-interest. At best, what we would have would be a set of prudential norms. Baker's attempt to avoid rational self-interest makes sense as a way to preserve the essentially social and collaborative character of morality, but he is unable to do it without implicitly positing some fundament moral values.

CONCLUSION: MIGHT NATURALIZED BIOETHICS BE OUR ODYSSEUS?

I have argued that neither the principlist nor the contractarian approach to cross-cultural bioethics are without significant flaws. Of course, in the absence of at least some effort to put forth an alternative program, critical projects are not of much help. Even though these two frameworks have significant theoretical disadvantages, they might still be the only games in town. Or perhaps their flaws give us a reason to fall back on the standard moral theories. One might return to a purely utilitarian or deontological framework. But if my criticism of idealized moral theories is sound, it holds equally well for the theories of Kant and Mill. With that in mind, I intend to sketch the outlines of a non-idealized, naturalized framework that can serve as the appealing alternative. It too has some potential weakness for which I will only be able to gesture at a remedy. The details will be left to be filled in later.

My criticisms help suggest two important features of a framework that might fit stably between the relativist and imperialist extremes. First, the framework will take seriously the need for empirical adequacy in identifying and justifying cross-cultural norms amidst real cultural diversity. Second, the framework will be explicitly formulated to generate theory that is sensitive to the realities of socio-political power imbalances. Given that I identified the lack of such features as problematic for the two frameworks I reviewed, a framework intended to have advantages over these two must not also commit the same sins.

I propose that a naturalized and feminist framework can incorporate these two important features. Such a framework combines the non-ideal approach with the commitment to empirical adequacy. Before explaining how, let me clarify how I am using 'naturalized' and 'feminist'. The underlying attitude unifying diverse approaches that call themselves naturalistic is a commitment to 'understanding moral judgment in terms of natural facts about ourselves and our world'.[24] Although the distinctive form of ethical naturalism I favor is cashed out primarily in epistemological terms, its plausibility relies on a particular re-orientation concerning the ontological status of nature. A naturalized moral epistemological framework seeks to understand the processes by which we attain moral knowledge wholly in terms of our ordinary modes of perception and reflection. Naturalism in epistemology generally is committed to the anti-foundationalist claim that experience needs no validation (or foundation) outside of itself in order to secure its knowledge-producing credentials. Naturalism in moral epistemology, likewise, is committed to the view that moral experience needs no validation outside of itself to secure its legitimacy in serving as the basis for producing moral knowledge.

If one thinks that natural features are, or are reducible to, features of objects that necessarily figure in efficient-causal explanations, then it appears initially quite difficult to understand how the experience of nature could validate moral knowledge on its own. Nothing in the mechanical world seems to fit our notion of moral features like 'good' or 'right.' If, on the other hand, one rejects the equation of nature with a mechanical-causal world, then it is not so initially problematic to talk about moral considerations as real natural features of entities. To put this another way, the naturalism of this framework is a naturalism that rejects the claim that nature is exhausted by the features of nature that natural science reveals. Another conception of nature occurs in the notion of second nature operative in Aristotle's account of character formation. Seeing certain moral properties becomes natural to us in virtue of the dispositions of moral perception we come to have through education. My account is naturalistic in the sense that it seeks to

[24] M.U. Walker. 2009. Introduction: Groningen Naturalism in Bioethics. In *Naturalized Bioethics: Toward Responsible Knowing and Practice*, H. Lindemann, M. Verkerk, and M.U. Walker, eds. New York: Cambridge University Press: 1.

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avoid appeal to something outside of the moral features already revealed to us through second nature.[25]

An important clarification needs to be made: I have rejected scientism, not natural science. Like many naturalizing approaches, this naturalism emphasizes the importance of developing theories that are empirically adequate in the sense of being responsive to the discoveries in the social and natural sciences rather than being dismissive of them. Responsiveness does not mean dogmatic acceptance, and it is the critical component of this kind of responsiveness that is best illustrated in feminist naturalizers. According to Alison Jaggar, feminist naturalism, specifically, presses the importance of empirical adequacy for showing how ethical theories explicitly or implicitly based on conceptions of gender have distorted the picture of moral experience by relying on empirically inadequate views of gender difference.[26] Feminist naturalism views philosophy – including moral philosophy – naturalistically as well: that is, as culturally specific sets of texts and practices that reflect the historically particular biases and worldviews of the people who wrote them. Kathryn Pine Addelson provides a paradigmatic example of this approach.[27] She criticizes models of moral agency that emphasize the importance of choosing a rational life-plan as too narrow because they reflect the moral experiences of only a predominantly white, middle class, and male set of individuals for whom the material resources and social opportunities make this possible. Her criticism takes moral philosophy and moral philosophers as products of their cultural and social situatedness, just like any other person or area of inquiry, rather than as an area of inquiry capable of escaping the natural limits of being a person in the world. Being responsive to empirical adequacy in this sense means that one does not lose sight of the socio-natural context in which moral reflection takes place. This includes the psycho-biological features of the humans doing the reflections but does not imply that the validity of those moral judgments can be straightforwardly derived from facts about our psychological or evolutionary predicaments.

As an approach to cross-cultural bioethics, the need for empirical adequacy translates into a methodological insistence on using detailed serious anthropological and psychological research to understand the factual and evaluative bases of moral disagreements. Classic research in anthropology is not the only source we have to rely on in this regard.[28] More recent theoretically informed research in cultural psychology helps shed invaluable light on moral diversity among groups of people.[29] Two relevant dimensions need to be covered in order for a theoretically informed approach to cross-cultural disagreement to be empirically adequate. First, our understanding of another person's divergent moral beliefs or another culture's divergent moral practice needs to be embedded in the context of their total socio-cultural system, rather than isolated from the social background that gives it meaning. Second, the approach needs to be self-reflexive in that it understands itself as a cultural product. Self-reflexivity guards against assuming as normal or universal one's own moral intuitions.

To say that the naturalized framework is non-ideal is, in my estimation, just another way to say that it is naturalized, but the label 'non-ideal' helps bring out further aspects of the naturalized moral framework. Idealized models of social institutions and human nature de-contextualize features of actual social institutions and human nature from their real-world locations, and moral theories relying on idealized models base their prescriptions for real world agents on the how ideal agents in ideal circumstances would behave. Since we want a theory that can guide action in non-ideal circumstances, we do not want to abstract those circumstances away. This is no less important for situations of cross-cultural moral disagreement. Aside from the worries of inequality among participants that have been voiced above, one's models of culture and community are in danger of unhelpful idealizing. What one wants to avoid is an explicit or implicit conception of culture that implies that the patterns of behavior or belief we associate with a culture are all perfectly internalized in those deemed members of that culture. The values we might associate with a community are not necessarily the values of each member of that community. Also, cultures and communities are not definitively bounded in such a way that makes cultural identification a straightforward task. Such idealizing assumptions might prevent us from seeing agreements that already exist among individuals with different cultural backgrounds and cause us to conceptualize every instance of moral disagreement in cross-cultural circumstances as instances of a clash of cultures.

Now, an important task for any naturalized approach to ethics is to explain why widespread worries that natu-

[25] This modern version of Aristotelian naturalism is heavily indebted to the work of J.H. McDowell.

[26] A.M. Jaggar. Ethics Naturalized: Feminism's Contribution to Moral Epistemology. *Metaphilosophy* 2000; 31: 452–468.

[27] K.P. Addelson. 1994. *Moral Passages: Toward a Collectivist Moral Theory*. New York: Routledge.

[28] R.B. Brandt. 1954. *Hopi Ethics: a Theoretical Analysis*. Chicago, IL: Chicago University Press; W.G. Sumner. 1906. *Folkways: a Study of the Sociological Importance of Usages, Manners, Customs, Mores, and Morals*. Available at: http://www.gutenberg.org/ebooks/24253 [Accessed 20 March 2014]; E. Westermarck 1924. *The Origin and Development of the Moral Ideas*. Available at: http://archive.org/details/theoriginanddeve02westuoft [Accessed 20 March 2014].

[29] S. Kitayama & H. Markus. 2000. The Pursuit of Happiness and the Realization of Sympathy: Cultural Patterns of Self, Social Relations, and Well-being. In *Subjective Well-being Across Cultures*. E. Diener & E. Suh, eds. Cambridge, MA: MIT Press; R. Nisbett & D. Cohen. 1996. *Culture of Honor: the psychology of violence in the South*. Boulder, CO: Westview Press.

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ralizing moves miss the essential normativity of ethics are misplaced. The approach I favor has an advantage in this regard because this worry most prevalently emerges from the scientistic view of nature I reject. Displacing the scientistic view is no easy task because the predominant model for nature in the western world is the model of nature so useful for modern science – nature as a causal-mechanical world of interacting objects made intelligible by deterministic or probabilistic physical laws. It is hard to see how entities like moral values could fit into the fabric of this reality. This problem is related to Mackie's famous argument from queerness against any metaethical framework claiming moral values to be objective properties independent of human minds.[30] If the normativity of morality relies on the existence of moral values mere awareness of which causes us to behave morally, then the fact that we cannot make much sense of such queer entities as actually existing calls into question the idea that moral judgments can have normative force. If one thinks that morality is natural and one thinks that the natural world is a causal-mechanical world described by natural science, then naturalized ethics could only describe patterns of behavior that individuals and societies *do* deem moral without thereby being able to say anything about what they *ought* to deem moral. R. M. Hare claims that value terms have a special function of commending actions, events, or people.[31] Naturalized accounts of value terms cannot underwrite rational canons for understanding which actions, events, or people *merit* such commendations because the terms used in natural facts are descriptive and not evaluative.

One move for naturalistic ethical approaches is to deny that moral values are the kinds of things that are categorically prescriptive. That moral values exert a normative force on our behaviors is contingently true – contingent on one taking an interest in morality in the first place. Presuming that it is less suspect to claim that we naturally have some *prima facie* reasons to act in accord with our interests, those who have *prima facie* reasons for acting in accord with morality are those who have an interest in achieving the goods that morality helps one to achieve. This causes no big problems because humans, in general, have shared desires for the same basic goods. Naturalistic accounts can tell us the most efficient means for achieving those goods. Since humans are social, those means will include the regulation of self-interest. The moral norms just are the norms regulating self-interest that help us achieve the goods of human life, and moral commendations are appropriately applied to actions in accord with those norms. Moral norms are not categorically prescriptive. They borrow their force from desires that underlie them.

This move still has problems. It is not clear how under such an account, the free riding behavior of some individuals on other moral agents can be rationally condemned. Free riders are able to attain the goods of human life that make morality valuable without engaging in moral behavior, just so long as most people continue to behave morally. Anyone who can get the same goods without paying the price of moral constraint would seem to have reason to do so. The problem is that morality seems to present itself to us as something that binds us categorically and legitimately so.

I think that second nature can provide an account of morality as categorical without relying on something extra to morality as foundation. This is because one's second nature is that which opens one up to the space of moral reasons, and such reasons command us categorically.[32] Second nature shapes our perceptual and motivational tendencies in such a way that moral features of the world call out to us for particular kinds of responses. We do not have to posit moral features as completely independent of human learned capacities to retain a naturalist and realist view of moral reasons as categorical. If we understand objective moral properties in this way, then Mackie's argument from queerness has less bite.

From the perspective of someone opened up to the dictates of virtue by a second nature, morality is not valuable on account of the external goods it secures. The value of morality is redeemed simply in virtue of being the virtuous person that one is obligated to be. So, free riders are simply unable to cognize the rational force of the dictates of virtue.[33] Though second nature is a cultural product, it is through the acquiring of a second that the rationally binding normative force of moral consideration become evident to us. Thus, second nature can explain the normative force of morality without admitting of non-natural facts or allowing for free rides to gain the real value of morality without putting in the moral work.

Much more needs to be done to flesh out this proposal. In addition to filling out the details of the alternative conception of nature underlying the naturalized framework, the approach needs to grapple specifically with the extent to which some relativism about moral values can

[30] J.L. Mackie. 1977. *Ethics: Inventing Right and Wrong*. New York: Penguin Group.

[31] R.M. Hare. 1964. *The Language of Morals*. New York: Oxford University Press: 91.

[32] J.H. McDowell. 1998. *Mind, Value, & Reality*. Cambridge, MA: Harvard University Press: 188–189.

[33] This does not deny that incentives may still exist for free-riding, but those incentives are not moral incentives. Moral reasons, in most cases, present themselves as over-riding all other concerns. An individual may decide to free ride in order to avoid the cost to himself or herself of doing the morally obligated thing to do. On my interpretation, this would be a failure on the part of the agent to see the moral reasons as they really are – as overriding reasons.

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be tolerated without sinking our boat in that whirlpool. This framework ought to also be able to say something to guide negotiation of difficult moral disagreements in situations where constraints on time and resources prohibit the extensive kind of background work needed to uncover the bases of disagreement. Crisis situations in medical contexts are common, and how one might rationally navigate moral disagreement there calls for some theoretical insight. More detail must also be given concerning situations where it seems as if the moral disagreement does come down to some bare bones evaluative difference. ('You see it this way. I see it that way. What now?') Do we ultimately want to tolerate such differences as the end point of rational discussion in moral conversations? Such an ambitious project must, alas, be left for another time and sustained effort.

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Biography

Daniel Beck is a PhD candidate in the department of philosophy at Michigan State University. His interests include moral epistemology, bioethics, and global justice.

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