

A Moral Argument Against Moral Dilemmas<sup>1</sup>

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Identifying the Issue

My concern in this paper is whether we should believe that there are genuine moral dilemmas. These would be situations (as I am thinking of them) such that no matter what an agent does, she does something morally wrong, something that in the event is an appropriate ground for recrimination, condemnation, blame, or guilt.<sup>2</sup>

Whether this is an important issue turns largely on what is involved in acknowledging that an action is wrong. The less that is packed in to such a judgment -- the less weight we are supposed to give it in our deliberations and reactions -- the less it matters whether there are genuine moral dilemmas. In what follows I will be assuming that quite a lot is packed in, that in saying people did something morally wrong we are condemning them, or seeing them as appropriately blamed, or as properly suffering guilt (because what they did was wrong). As will become clear, the force of the argument I will be offering travels in tandem with the seriousness with which one treats the judgment that one has done something wrong.

Before turning to a discussion of (genuine) moral dilemmas, it is worth distinguishing them from other things in the neighborhood with which they might, in casual moments, be confused.

A genuine moral dilemma is not, for instance, just a case in which one does not, and perhaps cannot, *know* what the right thing to do is. Such situations do of course leave one liable to doing the wrong thing, and they are such that no matter what one does one might have to grant (given one's epistemic situation) that it *may* be wrong. Such epistemic dilemmas, though, are not situations in which no matter what one does one will actually be doing something that is morally wrong. As difficult as epistemic dilemmas can be, they don't pose the sort of problem that I am interested in exploring.

Similarly, a genuine moral dilemma is not simply any situation in which one must choose among options that involve violating obligations -- say the obligation to save lives, when one can, and the obligation to keep one's promises -- if, under the circumstances, violating (at least) one of the obligations is not wrong. Certainly, violating obligations of *this sort* might leave a residue that requires something of the agent, an explanation or an apology or an effort to compensate. But the

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<sup>2</sup> In saying that what she does is *in the event* an appropriate ground for condemnation, blame, or guilt, I am meaning to distinguish cases where an agent is doing what is in fact wrong, from cases where what she does is only the sort of thing that is usually wrong (which is what we might say of killing another human being, or breaking a promise, or violating a trust, even when we recognize that the right thing to do in a particular situation is to kill someone, or break a promise, or betray a trust). In case this needs saying, I am assuming that if an action is wrong, in the relevant sense, it is not also the right thing to do.

fact that such residue remains does not establish that there is a genuine moral dilemma unless the residue reflects there being grounds for blame or guilt (and not simply grounds for making amends, offering apologies, or compensating for loss in some way). If breaking the promise, under the circumstances, is the right thing to do, then while one might owe an apology, one has not done the wrong thing and so was not in a situation in which no matter what one did, one did something wrong.<sup>3</sup>

Again, one doesn't face a genuine moral dilemma if one is simply having to choose among equally needy people, not all of whom one can help, if none of them has a particular claim on one's help. To fail to confer a benefit is not always to do something wrong (even in cases where deciding not to confer the benefit on anyone might be wrong).

And finally, in asking whether there are genuine moral dilemmas I am not asking whether there are wrenching moral decisions that people have to make, decisions so hard that no sane person could be expected to survive making them undamaged. That there are such decisions I have no doubt. The question is whether those decisions, or others, are properly understood as being made in a context in which no matter what one does, one does something morally wrong, something for which one is properly thought condemnable, blamable, or guilty.

### More or Less Classic Examples

Literature and life alike offer vivid cases in which, as it seems, no matter what a person does, she does something wrong. Focusing on literature:

Consider Antigone's situation. Her brother, Polyneices, has fought against their motherland, Thebes. As a result, their King (and Uncle), Creon, decrees that his fallen body should remain exposed to the elements rather than receive a proper burial. Antigone finds herself in a situation in which her duty to her brother (to ensure he has a proper burial) and her duty to her King and Uncle (to obey his commands). She seems clearly to think that she is not in a dilemma and defends herself as having done the right thing. But others have maintained that at least a part of the tragedy of her situation is that she was properly condemned no matter what she did.<sup>4</sup>

Just as familiar is the choice Agamemnon had to face. Having claimed that he was the equal of Artemis, Agamemnon learns from a prophet that the only way he can appease the goddess, and so free his troops from her wrath, is by sacrificing Iphigenia. On the one hand, there are a General's duties to his country and his troops, on the other, a father's duties to his daughter. One of the others, it seems, cannot be met, and that despite one or the other having to be left undone.

And then there is Isabella (in Shakespeare's *Measure for Measure*) in which Isabella, a nun, is able to save her brother Claudio from death only by sleeping with his malevolent condemner,

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<sup>3</sup> Someone might of course argue that the appropriateness of the apology is sufficient grounds for thinking the agent did something wrong, but I think that is too quick. The grounds for apology include having disappointed legitimate expectations, and one might have done that while rightly holding that, given one's circumstances, one did nothing wrong.

<sup>4</sup> For what it is worth, Creon's son Haemon, and the prophet Tiresias, agree with Antigone, in effect holding that there is no dilemma, just a terrible situation for her.

Angelo. She has her sworn duties as a nun to sustain her virginity, and her never lifted duties as a sister to do what she can to help her brother.

Or think of Nora (in Ibsen's *A Doll's House*) who sees herself as having to choose between her duties to her husband and children and "other duties equally sacred" to herself. Either way, as she say it, she would be failing in her duties and would be rightly blamed and appropriately guilty.

And Sartre's pupil, who found himself having to decide whether to join the Free French, and abandon his mother, who needed him, or to stay with his mother, and as a result fail to do his part in opposing fascism.

Finally, think of Sophie, who was forced by a Nazi officer to choose between her children, who will live and who will die. Not trying to save either would be wrong, but whichever she chose, she thought, she would be doing something wrong. It's plausible even to think that part of what was so diabolical about the Nazi was specifically his putting Sophie into a moral dilemma.

These are all familiar examples from literature, and they each naturally invite the idea that understanding the situation of the key protagonists requires seeing them as facing genuine moral dilemmas and not just epistemic dilemmas, or hard choices, or...)

There are similar, albeit more prosaic, examples to be found in common life. Just which cases are good examples will turn, of course, on one's moral views, but plausible examples are found when one considers terminating a pregnancy, disconnecting a parent from life support, ending a marriage, firing a friend, or ...

### Why think these are genuine moral dilemmas?

These various examples seem themselves to provide powerful arguments for the existence of genuine moral dilemmas. After all, isn't the simplest of hypotheses that these cases -- in which it *seems* as if people face genuine moral dilemmas -- seem that way because they do face genuine moral dilemmas?

Moreover, though, the cases work nicely to highlight two features of moral life that many have thought go hand in hand with there being genuine moral dilemmas.

The first is that, pretty much by all accounts, agents who face the sort of situations I have canvassed would appropriately feel regret or guilt no matter what they did. If somehow someone managed to act in such situations (choose whichever is most poignant for you) without feeling regret or guilt we would think there was something wrong with them. So, for instance, on some accounts of Agamemnon he was able more or less willingly to sacrifice his daughter Iphigenia to appease the goddess Artemis. The easier that choice for him, the freer from angst and regret and guilt, the more we are likely to view him as vicious (if not as a kind of moral monster). And if Sophie were, contrary to the story, able to survive having chosen one of her children for death, without suffering deep damage, we would I suspect think much less of her, thinking that capacity to survive in that way would reveal her to be callously indifferent to her role in her child's death or in some other way, morally defective.

The second is that, in many of these cases, it seems as if the force of the dilemmas reflects the fact that there are different and incommensurable sources of moral duty. God and country,

family and freedom, fidelity and liberty... Shouldn't we think both that there are a broad range of morally important things and that there's no reason, *ex ante*, to suppose there is a single metric on the basis of which we might compare demands to see which is more important than the other? If so, then the idea that there are moral dilemmas has seemed to many to fall out naturally. How could one suppose there were not genuine dilemmas without thinking that the apparent dilemmas should be resolved by comparing the relative importance? And if there is no commensuration possible, it would make no sense to think of relative importance.

These two considerations, especially when added to the fact that people *seem* to face genuine moral dilemmas, has convinced many that the default view, and the common sense one, is that there are genuine dilemmas – that at least sometimes people can find themselves in situations in which, no matter what they do, they do something morally wrong.

### Standard Moral Theory

The familiarity of the sort of cases mentioned above, and their power in making it seem as if, sometimes, people really are (justifiably) damned if they do, and (justifiably) damned if they don't, makes the following a striking fact:

The possibility of genuine moral dilemmas seems to be ruled out by Aristotle's moral theory, on those interpretations that see the doctrine of the unity of the virtues as going hand in hand with thinking the virtuous person will always have, and see, a virtuous course of action available.

And Aquinas, having distinguished *perplexities secundum quid* (dilemmas that emerge as a result of one's prior wrong behavior) from *perplexities simpliciter* (dilemmas that are a reflection of morality's demands rather than one's failings) is at great pains to deny the possibility of the later.

Kant was no less opposed to genuine moral dilemmas. According to him, "a conflict of duties and obligations is inconceivable (*obligations non colliduntur*)."<sup>5</sup> This is because the concepts of duty and obligation "express the objective practical necessity of certain actions, and since two opposite rules cannot be necessary at the same time, then if it is our duty to act in accordance with one of them, it is not only not a duty, but contrary to duty, to act in accordance with the other."<sup>5</sup>

Sidgwick too thought the idea that there might be genuine moral dilemmas indefensible. "We cannot, of course, regard as valid reasonings that lead to conflicting conclusions [that one ought to perform some action and that one ought not perform that action]; and I therefore assume as a fundamental postulate of Ethics, that so far as two methods conflict, one or the other of them must be modified or rejected."<sup>6</sup>

Mill was no less antagonistic towards moral dilemmas. He argued that "There must be some standard by which to determine the goodness or badness, absolute and comparative, of ends or objects of desire. And whatever that standard is, there can be but one; for if there were several ultimate principles of conduct, the same conduct might be approved by one of those principles and condemned by the other; and there would be needed some more general principle as umpire between them." For Mill, the discovery of an apparent dilemma is an argument for thinking one has not found the fundamental principle of morality. And to have such a principle is to have a standard

<sup>5</sup> The Metaphysical Principles of Virtue (Indianapolis: Bobbs-Merrill, 1964), trans. by James Ellington, [224], p. 24..

<sup>6</sup> Methods of Ethics (London: Macmillan and Co., 1907), p. 6.

by which to determine the relative importance of courses of conduct in a way that eliminates dilemmas.

W. D. Ross, who was at pains to respect and accommodate the variety of principles we seem to find at the foundation of morality, nonetheless thought the idea that there might be genuine moral dilemmas as involving an unacceptable inconsistency. He describes “I ought to keep the promise” and “I ought to break it” as the “inconsistent consequences of two principles that are not themselves “formally inconsistent.”<sup>7</sup> As a result, while he is quick to admit that prima facie duties might conflict, he is quick to stress that prima facie duties are *not duties at all*. Duties, he thought, could not conflict.

And John Rawls’ grounds for introducing a “lexical ordering” of first principles seems similarly motivated by the thought that, absent such an ordering, the principles might in application unacceptably generate conflicting conclusions, that is, moral dilemmas.

Among moral theorists, the idea that genuine moral dilemmas are *impossible* -- that however wrenching a choice and no matter what the situation, one always has a permissible option -- is both widely accepted and embraced not as an auxiliary hypothesis but as a central feature of their views. As a result, it is no surprise then that Standard Deontic Logic, which attempts to articulate and formalize the conceptual commitments of our thought and talk of duty and obligation, has the impossibility of moral dilemmas as a theorem.<sup>8</sup>

### What’s Wrong with Moral Dilemmas?

So why think there are not possibly any moral dilemmas? The main arguments in the literature are formal or structural in character.

For instance, Ross’s objection is that admitting the possibility of genuine moral dilemmas would be tantamount to acknowledging the simultaneous truth of inconsistent claims. To grant a dilemma is, he seems to think, to hold both X and  $\sim X$  (that is the supposed inconsistent consequence of the conflicting, but not formally inconsistent, principles). But there is an easy and more or less standard reply to this charge.

The first step is to introduce a reasonable way of representing formally what a genuine moral dilemma would involve. Suppose that we represent the claim that someone ought to do, or has a duty to do, some particular thing, A, in this way

O(A) [read as ‘one ought to do A’]<sup>9</sup>

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<sup>7</sup> Foundations of Ethics (Oxford: Clarendon Press, 1939), pp. 88-89.

<sup>8</sup> One might of course hold that people are not guilty for what they have done while holding that they are nonetheless liable for making amends or owe reparations or expiation. Making this point about Oedipus and Jocasta and other tragedies where people commit offences out of ignorance, Adam Smith claimed that “all of them in the highest degree piacular, though not one of them is in the smallest degree guilty” [*Theory of Moral Sentiments* (Oxford: Oxford University Press, 1976), p. 107]. Taking this line, one might well deny that there are moral dilemmas – i.e. situations in which no matter what one does one is guilty or blamable -- while acknowledging that in some situations one will inevitably be “piacular.”

<sup>9</sup> There are of course all sorts of complications we might introduce. For instance, it might be good to capture the fact that our duties are sensitive to our circumstances, in which case we could use O(A/C) [one ought to do A, in

We can then think of a genuine moral dilemma as a situation in which an agent has at least two distinct courses of conduct that she ought to take

1.  $O(A)$

2.  $O(B)$

yet they are not compossible:

3.  $\sim\Diamond(A\&B)$ <sup>10</sup>

With that in mind, even if in a particular situation we were able to move from the conflicting principles behind 1. and 2. to

4.  $O(A)$

and

5.  $O(\sim A)$

(which Ross seems to be assuming), we would not have an outright inconsistency on our hands, since the negation occurs within a modal context. So far as we have said, to hold that one ought to do  $A$  and that one ought to do not- $A$ , is no more inconsistent than saying it is possible for me to leave the room and possible for me not to leave the room. There is, so far, no outright contradiction, contra Ross.

### *Problems with possibility*

Out-right contradictions are near to hand, though, if we add certain plausible assumptions. Thus, for instance, if “Ought implies Can”

6. If  $O(A)$  then  $\Diamond(A)$

and a “Principle of Agglomeration”

7. if  $O(A) \& O(B)$  then  $O(A\&B)$

When added to 4. and 5. Above 6. And 7. lead to a contradiction. By 6. we get that it is not the case that we ought to do  $A$  and  $\sim A$  (which, after all, are not com-possible):  $\sim O(A\&\sim A)$ . But

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circumstances  $C$ ]; or we might want to index the obligations to capture the fact that one person may have an obligation to do  $A$  in circumstances  $C$  even as another doesn't, in which case we could introduce subscripts on the Obligation operator. And we might want to find a way to capture the ways in which obligations are time sensitive, or path dependent, or... But none of these niceties are needed to make the points that follow.

<sup>10</sup> Ross himself seems to be thinking of genuine moral dilemmas as situations in which the agent both ought to do something (keep her promise) and ought not to do that very thing (since she ought to break her promise). If so, a dilemma for him emerges as a situation in which both  $O(A)$  and  $O(\sim A)$ . Given certain assumptions about our obligation to do what is necessary to satisfy our obligations, the move from 1 through 3, to 5. is pretty straight forward. But the assumptions are, understandably, controversial (in exactly the same way, and for the same reasons, at least in part, as are the assumptions I set out in the body of the paper.

from that and 7. we get that it is not the case that there is an obligation to do  $A$  and an obligation to do  $\sim A$ ,  $\sim[O(A) \ \& \ O(\sim A)]$ , which then implies that either 4. or 5. is false, leaving us with a *reductio*.

*Problems with permissibility*

Inconsistency emerges as well if we assume that “what is obligatory is permissible”

8. if  $O(A)$  then  $P(A)$

and that “if something is permissible then we don’t have an obligation not to do it”

9. if  $P(A)$  then  $\sim O(\sim A)$ .

For if we allow genuine dilemmas -- situations in which we have an obligation to do something and also an obligation not to do it -- 4. and 8. get us  $P(A)$ , which, when combined with 9. gets us  $\sim O(\sim A)$ , which is straightforwardly inconsistent with 5.

Consequently, two sets of auxiliary assumptions, one set having to do with the connection between obligation and possibility, the other having to do with the connection between obligation and permissibility, are logically incompatible with the existence of moral dilemmas (understood as Ross understood them, as involving both an obligation to do something and an obligation not to do it). (The first set of problems remains even if one sticks with 1. through 3. as capturing the nature of moral dilemmas and resists Ross’s move from them to 4. and 5.)

The assumptions are, indeed, very plausible. I think they can be seen to be at work in much of our thinking about the nature of obligations and duties. It is no surprise that they have regularly found a place in attempts to develop a logic that captures our deontic concepts. And their attractiveness, as part and parcel of our concepts of obligation and duty, fits well with, for instance, Earl Conee’s confident claim that the idea that two absolute, unconditional, and not merely prima facie obligations might conflict “is absolutely, unconditionally, and not merely prima facie incredible.”<sup>11</sup> And it fits well, more generally, with the fact that so many moral theorists have rejected out of hand the idea that we might face genuine moral dilemmas.

I am myself attracted to the assumptions as capturing important aspects of our deontic concepts. Yet appealing to these assumptions in an argument against moral dilemmas is problematic. As long as defenders of moral dilemmas can reasonably reject at least one of the assumptions that generate the problems with possibility and at least one of the assumptions that generate the problems with permissibility, they can grant genuine moral dilemmas without facing inconsistencies. And reject such assumptions they do.

So, for instance, when it comes to problems with possibility, several of those who defend the possibility of moral dilemmas argue against the principle of agglomeration, even as they grant that ‘ought’ implies ‘can’, while others take the existence of moral dilemmas as showing that, at least some times, the fact that we cannot do something is compatible with our having an obligation to do it. Either way, these positions preserve consistency.

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<sup>11</sup> “Against Moral Dilemmas,” *Philosophical Review* (1982), pp. 87-88.

Similarly, when it comes to the problems with permissibility, those who defend the possibility of moral dilemmas standardly resist the assumption that the fact that one ought to do something establishes that doing it is permissible. Supposing that, they argue, ignores the possibility that the considerations that establish a course of action as our duty might conflict with an independent set of considerations that establish that that very course of action is forbidden, or contrary to our duty. And that possibility is compatible with thinking that the success of each set of considerations, in establishing the conclusion they do, goes with holding that, from the point of view of those considerations, the course of action is permissible.<sup>12</sup> Such a view might grant some connection (relative to a set of considerations, or a source of value, or a locus of authority) between obligation and permissibility without embracing the assumption that generates inconsistency.

As a result, granting the existence of genuine moral dilemmas does not ineluctably lead to logical absurdity. The issue ends up being whether those who defend the possibility of moral dilemmas preserve consistency at the cost of changing the subject from obligation and duty to something else. But that issue cannot reasonably be settled simply by insisting on the assumptions that the other side rejects.

When it comes to explaining the resistance moral theorists have shown to the admitting genuine moral dilemmas, I do think the assumptions identified above have played an important role.

#### *Problems with coherence*

There is another sort of consideration, still a formal as opposed to a substantive one, that I suspect has shaped thinking about moral dilemmas. It shows up fairly explicitly in Mill's thinking about the structure of an adequate moral theory. The worry seems to be that any theory that allows genuine moral dilemmas must be in an important sense incoherent, not (as in the arguments above) because the theory is inconsistent, but because it must have somewhere within conflicting principles that cannot be adequately reconciled. Different philosophers appear to have different criteria for adequate reconciliation, though. Thus Kant's worry seems to be that allowing genuine moral dilemmas requires granting as necessary two distinct principles that cannot both be genuinely necessary, if they have incompatible results. The problem of reconciliation settles on the impossibility of showing both principles are necessary, in the appropriate sense. Mill, on the other hand, seems to be concerned that any theory that allows genuine dilemmas must have at least two (conflicting) principles, the proper interaction of which is, so far, left unaccounted for by the theory. The problem, as Mill sees it, is that a dilemma allowing theory fails to reconcile the conflicting principles because it fails to account for how they relate to one another.<sup>13</sup> Some additional principle, or at least some further story, or a priority rule, or some sort of lexical ordering, is needed, before one has a properly coherent theory (the thought seems to be).

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<sup>12</sup> See van Fraassen's "Values and the Heart's Commands," *Journal of Philosophy* 70 (1973), p. 5-19

<sup>13</sup> "[T]hose who adopt utility as a standard can seldom apply it truly except through the secondary principles; those who reject it, generally do no more than erect those secondary principles into first principle. It is when two or more of the secondary principles conflict, that a direct appeal to some first principle becomes necessary; and then commences the practical importance of the utilitarian controversy; which is, in other respects, a question of arrangement and logical subordination rather than of practice; important principally in a purely scientific point of view, *for the sake of the systematic unity and coherency of ethical philosophy.*" [ital. added] John Stuart Mill, *Collected Works of John Stuart Mill*, X, p. 111 (Toronto: University of Toronto Press, 1969)



Put in these ways, though, the worries about coherence do not seem well-founded.

In the first place, even monistic theories, that have no burden of reconciling an otherwise fragmented, and so in that sense incoherent, principles, might generate moral dilemmas. Consider, just by way of an extreme example, a theory that consisted of just one principle: one ought always and without exception keep one's promises. Such a theory steers clear of fragmentation, yet, given an unfortunate pattern of promises one might easily find oneself in a moral dilemma in which, no matter what one did, one would be failing to do one's duty, and so would be doing something wrong. Similarly, a theory that imposed the single duty of always respecting oneself and others might still leave one facing genuine moral dilemmas, if respecting one person involved doing something that was incompatible with respecting another, or oneself. Of course, dilemmas in this case are not inevitable. And one might argue that a proper understanding of respect would show that the required respect can always be given to all. But such an argument would bring one away from questions of the coherence of the theory to, for instance, the grounds for thinking the required respect must be possible (and the problems with possibility).

In the second place, those who think there are genuine moral dilemmas can argue that the structural incoherence of a moral theory is perfectly compatible with the theory being both true and useful. It might be unlovely, given a theoretician's aesthetics. Yet if a proper appreciation of the moral landscape leads us to hold that there are a plurality of fundamental -- and potentially conflicting principles -- then the fragmentation uncovered should be seen as a discovery about moral life and not an objection to the theory that acknowledges the discovery.

#### A Different, and Substantively Moral, Argument Against Genuine Moral Dilemmas

The arguments against genuine moral dilemmas that we have so far covered are, in an important sense, formal or structural. They have to do with the *boundaries* and *implications* of our concepts of obligation and duty and with the *structure* of the theories we might embrace in trying to capture the nature of obligation. In this, they can be contrasted with the sort of argument that I now want to offer, which is unabashedly substantive and depends on a recognizably moral assumption.

The argument is prompted by a gut reaction. And the challenge I am trying to meet is that of turning the gut reaction into an argument. So let me begin by highlighting the gut reaction. It is that, when it comes (for instance) to Sophie's situation, the problem with thinking she faced a genuine moral dilemma is that it miscasts a victim as a wrong-doer, and that it does so by imposing standards and demands on her that are impossible to satisfy. To think that no matter what she does she violates her duty, or does something that she ought not to do, is to see her as subject to demands that are themselves morally objectionable -- because they demand the impossible, and countenance sanctions for failing to do as demanded.

Slightly shifting the context, I have the same reaction to the idea of a God that arranges things so that his creation cannot meet all his commandments, and then condemns them for their failure to live up to those commandments. A God who ensures that you are damned if you do, and damned if you don't, is a God against whom one has a legitimate complaint.

Or consider a legal system structured so that no matter what one does, one violates the law and is, as a result, subject to punishment.<sup>14</sup> Here too one would have, I suggest, a legitimate moral complaint.<sup>15</sup>

In all these cases, I find myself thinking that there is something wrong with the system of norms, or the God, or the laws, in question. As I will put it, there is something “unfair” about them, and it is traceable to their demanding the impossible. Each of these situations is one in which the impossible is demanded, and they are morally objectionable on those grounds.

I don’t mean to put too much weight on the term “unfair” here. It has connotations, and perhaps implications, that are not important to the argument. The point is simply that there is something morally objectionable about demanding the impossible. And the gut reaction, which I hope to turn in to an argument, is that the problem with thinking there are moral dilemmas is that thinking there are dilemmas is thinking that morality is, itself, unfair (or otherwise morally objectionable).

The question becomes, why think this (supposed) unfairness constitutes any reason to deny moral dilemmas, as opposed to being a reason to avoid dilemmas, or to regret the human situation, or to empathize with those who are caught in moral dilemmas?

I will try to answer that question by offering an argument that leverages the unfairness of demanding the impossible into an argument against thinking that morality itself ever does demand the impossible.

### *The strategy*

Before turning to that argument, though, let me describe the underlying strategy. It takes its inspiration from dominance arguments in decision and game theory, though it differs in important ways from such arguments, as will become clear soon.

First, just a reminder about dominance arguments in decision and game theory. To offer such an argument is to show that, no matter what the probabilities of different outcomes (in decision theory) or no matter what the other agents do (in game theory), one does better by taking one of one’s options rather than all the alternatives. In such cases, that option dominates. A nice feature of such arguments, when they are available, is that they forestall the need to get more information. If one option is better (however that is measured or meant), no matter what happens, or no matter what others do, then choosing that option rather than the others makes sense, and one

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<sup>14</sup> There is an important difference between a set of norms or rules *demanding* the impossible and a set of rules that is structured so as to make something impossible. The latter, which we might think of as catch-22 systems, might well, of course, be objectionable, but not on the grounds that they are demanding the impossible.

<sup>15</sup> In each case, it is worth noting, the strength of the complaint is sensitive to the significance of the sanction for violation. If the “demands” are in effect recommendations, and violations of them are, say, noted and forgotten, then their “imposition” is not nearly so worrisome as if the violations are taken seriously and the implications of them are significant. So the argument I will be developing has its traction, if it has any at all, against the view that we should think of the actions of those in moral dilemmas as seriously wrong, as properly calling for condemnation, or blame, or guilt.

doesn't need to be concerned, in making in making a choice, with figuring out the odds of different outcomes or with anticipating the choices of others.<sup>16</sup>

### *The Argument*

Against that background, here is what I will argue (put a little loosely and making a slightly stronger claim than I actually believe can be defended):

*That for every plausible dilemma-allowing theory there is another, non-dilemma-allowing theory, that is better by that first theory's own lights.*

This argument differs crucially from a dominance argument since I am not arguing that there is a single non-dilemma-allowing theory that is better than all dilemma-allowing theories. Rather, I will be arguing that for each plausible dilemma-allowing theory there is some other theory, one that does not allow for dilemmas, that is better by the original theory's own standards. This style of argument offers no single non-dilemma-allowing theory as the best. Instead, it tries to show that whatever dilemma-allowing theory one embraces, there is another theory that one has reason to see as a theory of a morally better morality.

The restriction of the argument to *plausible* dilemma-allowing theories is important, and the nature of the restriction will end up doing a lot of work. But I think the restriction does not rule out much. Here is the force of the restriction: to count as plausible, all a theory needs to do is to acknowledge that demanding the impossible is unfair (or is, in some other way, morally objectionable). There needs to be among the theories in question standards or principles or values to the effect that demanding the impossible is unfair, or in some other way, a normative negative.

To grant this is not to hold that such demands should not be made, nor (obviously) is it to hold that they are not made. Though unfair, the demands might well serve other purposes that more than outweigh the negatives that come with unfairness of this sort. And even if such demands are not, on balance, justified, they might nonetheless be the demands we face.

So far, I don't think I have put on the table anything that those who believe in dilemmas are likely to reject. In fact, my sense is that most of them think that when someone finds herself in a serious moral dilemma, her situation is tragic precisely because the demands she faces cannot possibly be met. "Life *is* unfair," they observe. "Get over it." And they don't mean, in saying "get over it," that the unfairness is not a problem. They just think it is a fact of life. As they might say, a proper appreciation of such dilemmas is bound up with appreciating the tragedy, and the unfairness, of the human condition.

Thus (if I am right) the crucial condition on plausibility is one that most dilemma-allowing theories actually meet. (And I am content to put to one side, as theories not addressed by my argument, any that say there is no moral objection to demanding the impossible.)

The dilemma-allowing theories that count as plausible, for my purposes, may of course differ from one another in dramatic ways -- in the substantive principles they adopt, in the values they

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<sup>16</sup> Dominance reasoning can of course lead to all sorts of interesting problems, witness the Prisoners' Dilemma. But I will leave those complications aside here, since I think they don't come back to haunt the argument I will be giving.

recognize, in their understanding of the grounds of duty, etc. Whatever these differences, though, the theories that count as plausible (for my purposes) have two things in common: (i) they allow the possibility of genuine moral dilemmas and (ii) they acknowledge that demanding the impossible is unfair, so that *other things equal*, by the lights of those theories themselves the fact that a set of standards or norms or laws demand the impossible is a count against them, albeit a count that might be outweighed by other considerations.

With such theories in mind, the thing to notice is that we can take any one of these theories and construct a new theory (its ‘fairer counterpart’) that is exactly like the first, except that it includes an exception clause that kicks in whenever the norms, principles, or values of the original theory would have generated a moral dilemma. In effect, the exception clause works by replacing the dilemmic conjunction of obligations  $[(O(A) \& O(B))]$ , when it is not possible to do both A and B], with an obligation over a disjunct  $[O(A \vee B)]$ .

The original theory has it that one has done something wrong, has failed to do as one ought, no matter what one does. The ‘fairer counterpart’ backs off of the twin demands and replaces them with a demand that is satisfied by doing A or B. That demand too can, of course, be violated, but as long as one does either A or B, it is not. (That’s not to say that there may not be some other demand still in place that rules out doing one or the other of A and B, nor is it to say that just any way of satisfying the obligation to do A or B is permissible.)

The new theory, I should emphasize, is in all other respects exactly like the theory we started with (except, of course, it does not allow dilemmas).<sup>17</sup> If the original theory was pluralistic (aka incoherent) in its fundamental principles, so too will be its ‘fairer counterpart.’ And if the original theory acknowledged multiple sources of duty, or if it focused on the nature of virtue, or it embraces the incommensurability of value, so too with its ‘fairer counterpart.’

Importantly, the transformation from the original theory (whichever one we are focusing on) to the new theory, is not at all *ad hoc*. It is motivated by the original theory’s recognition that demanding the impossible is unfair (which is a recognition already in place, if the original theory is to count as plausible). The new theory differs from the old precisely in its removal of the demand that otherwise underwrites a complaint of unfairness.

At the same time, virtually all the arguments that one had for embracing the dilemma-allowing theory remain in place as support for the new theory. The only exceptions being whichever arguments, if any, actually entailed that there are dilemmas.

So, to give the argument in brief: We should reject the idea that there are genuine moral dilemmas since, whatever our reasons for embracing a theory that allows dilemmas, and whatever the theory, assuming it is plausible, there is some other theory, that does not allow dilemmas, that is better than the original by that original theory’s own standards.

In most of what follows, I will try to elaborate and defend this argument by considering various objections – in light of which I will have to back off and modify, in various ways, what I have just claimed. First, though, let me break the argument in seven steps -- that play out against a crucial assumption, that itself invites the objection I am most interested in exploring...

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<sup>17</sup> Well, there has to be a caveat here, more about which below.

1. Every moral theory that yields moral dilemmas demands the impossible.
2. For any moral theory that yields moral dilemmas there is another -- its 'fairer counterpart' -- that does not but that, otherwise, yields all the same moral conclusions on the same grounds.
3. Other things equal, any moral theory that yields moral dilemmas is worse than one that doesn't, at least in that it makes unfair demands.
4. There's no countervailing reason to prefer, in the choice between counterpart pairs, the one that yields dilemmas.
5. Therefore, for any moral theory that yields dilemmas there is a better theory that doesn't
6. Any plausible moral theory will recognize the unfairness of demanding the impossible
7. Therefore, for any plausible moral theory that yields dilemmas there is another theory -- its fairer counterpart -- that is better than it by its own standards and that doesn't yield dilemmas

All of which will get us the conclusion that there are no moral dilemmas if we assume that *we should believe in the possibility of moral dilemmas only if we have reason to think the best moral theory allows them.*

#### Objections And (To Some Extent) Replies, All By Way of Elaboration (And Of Course Defense).

I will start with my favorite objection. It's my favorite for two reasons. First, it gets at what I now think is a very neat, and so far unappreciated, distinctive feature of normative standards. Second, it begins by granting pretty much everything I claim in making the argument, specifically my assertion that for every plausible dilemma allowing theory, there is another theory, that does not allow dilemmas, that is better by that first theory's own lights. (You have to love an objection that grants so much. Others, that I will discuss below, are not so accommodating.)

##### *A better theory of morality vs. a theory of a better morality*

This objection concentrates on the assumption that *we should believe in the possibility of moral dilemmas only if we have reason to think the best moral theory allows them.* This is perfectly true, the objection concedes. The problem is that my argument does not show that the non-dilemma allowing theory is a better theory of morality, it shows (if it shows anything) only that the non-dilemma allowing theory is a theory of a better morality, which is crucially different. In effect, the objection points out, my argument is trading on a crucial ambiguity in in evaluating moral theories as better or worse.

To bring the point home, suppose we spent the day together trying to develop the best account we can of the laws of the land. No doubt we would face all sorts of difficulties and decisions, when it comes to figuring out what counts as part of the legal system and what is extra-legal, when it comes to specifying the scope and content of the laws, and when it comes to figuring out how they are related to each other (just to mention a few complexities). Suppose though that at the end of the day we arrive at a satisfying account. And we head off for a beer and begin a different discussion: what would be a better set of laws? Which of the laws in place would it be better to jettison, say because they are unfair or otherwise objectionable? Which laws should be added, either to enhance fairness or to make things better in some other way? We might well agree, a few beers in, that the new system of laws we identified in the evening was fairer and in other ways better than the laws we had discovered in the day, perhaps even better by the lights of those very

laws (if they put some weight on fairness). But that would not give us any reason whatsoever to revise our original account of the laws of the land. That it would be better were the laws otherwise is not a reason to think they are. It is a reason to work to change the laws.

Similarly, as the objection would have it, even if a morality that didn't allow dilemmas would be better, because fairer, that gives us no reason to think that there are no moral dilemmas, only reason to wish there weren't (which is no news at all).

I grant that, when we are working with (what I will call) descriptive, as opposed to normative, theories, there is a sharp distinction between "a better theory of X" and "a theory of a better X," and so a sharp distinction between a better theory of the law, and a theory of a better law. However, when domains, and so the theories, in question are normative, I believe the sharp distinction is elided.

With hopes of softening you to this idea, suppose we spend another day together, this time trying to develop the best account we can of what the principles of morality are. No doubt we would face all sorts of difficulties and decisions, when it comes to figuring out what counts as part of morality proper and what is extra-moral, when it comes to specifying the scope and content of the principles, and when it comes to figuring out how they are related to each other (just to mention a few complexities). Suppose though that at the end of the day we arrive at a satisfying account. And we head off for a beer and begin a different discussion: what would be a better set of principles? Which of the principles would it be better to jettison, say because they are unfair or otherwise objectionable? Which principles should be added, either to enhance fairness or to make things better in some other way? We might well agree, a few beers in, that the new system of principles we identified in the evening was fairer and in other ways better than the laws we had discovered in the day, perhaps even better by the lights of those very principles (if they put some weight on fairness). In this case, however, we would have powerful reason to revisit the results we arrived at earlier in the day. In discovering that the evening's principles were morally better we would have found reason for thinking that the earlier set of principles were not actually the principles of morality. Figuring out what set of principles would have a legitimate claim on our allegiance is part and parcel of figuring out what the principles of morality are.<sup>18</sup>

This contrast between the descriptive and the normative, when it comes to the distinction between a better theory of X and a theory of a better X, reflects something deep and important about our normative concepts, I think.<sup>19</sup> For our purposes here, though, the point is that the epistemic implications of thinking one set of moral principles is (morally) better are direct, and immediately provide grounds (albeit not necessarily decisive grounds) for revising one's understanding of what the principles of morality are.

If that is right, then granting that the non-dilemma-allowing theory is morally better than its less fair counterpart is granting that there are epistemic grounds for thinking that there are no genuine moral dilemmas.

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<sup>18</sup> I suspect that this aspect of moral theorizing is part of why the method of reflective equilibrium, that has us revise our understanding of moral principles in light of those principles moral implications, is especially at home in moral theory.

<sup>19</sup> I explore and try to account for the eliding of the distinction, in my "Rational Agency and Normative Concepts," (in draft) and "On a Better Moral Theory and a Theory of a Better Morality" (in draft).

How strong are those grounds? What might undermine or override them? These questions bring us to a series of objections, which I will take up, and respond to, too quickly.

*Appropriate guilt*

However fairer the non-dilemma-allowing theory might be, one might think we should reject it anyway on the grounds that in doing away with dilemmas it loses the capacity to make sense of why those in dilemmas characteristically do, and should, feel guilt, no matter which of the options they take. After all, according to the “fairer counterpart” the person is not actually failing to do her duty. Why then is her guilt appropriate?

There is, I think, an interesting and important line of reply available. While it is by no means decisive, it is plausible. As a first step, one might highlight a contrast between guilt, on the one hand, and regret on the other, holding that they differ specifically in that the former, but not the latter, involves thinking one has done something wrong. If that is right, then those who deny the possibility of dilemmas can argue that all the reasons we have for thinking the agents in question appropriately feel guilt, are actually reasons only for thinking they appropriately feel regret. The appropriateness of regret is not in any way undercut by abandoning the idea that the agent faced a dilemma. Continuing the response, those who reject dilemmas can go on to acknowledge that even guilt might be appropriately felt, absent dilemmas, as long as there is room to hold that the appropriateness of the guilt does not depend on the agent actually having done something wrong. And it does seem that an agent might well appropriately feel guilty (and perhaps, as part of that, appropriately think that she has done something wrong) even when she has not. As long as we can make sense of this, the person who denies dilemmas is well placed to account for an agent appropriately feeling guilt, and not just regret, when she acts in the sort of situations we were before inclined to characterize as dilemmas.

Moreover, it is worth pointing out, that while the dilemma-allowing theory and its “fairer counterpart” differ in whether they represent the person as facing a genuine dilemma, the latter theory leaves in place all the considerations in light of which the former theory was concluding that there were incompatible obligations. So, to the extent guilt makes sense because of the grounds one has for thinking one ought to act in a way one has not, all those grounds remain in place -- they just don’t, in the face of the considerations that support an incompatible obligation, succeed in establishing a duty specifically to act in the way one has failed to act. For example, then, if one appropriately feels guilty on failing to keep a promise because one has let down someone else’s reasonable expectations (and not simply because one has an obligation to keep one’s promises) the grounds for feeling guilt are all unaffected by the shift in theories.

*Is the “fairer counterpart” always better?*

The argument against moral dilemmas depends on supposing that the transition from the dilemma-allowing theory to the “fairer counterpart” is, in effect, cost free. Otherwise, whatever might be gained in fairness needs to be weighed carefully against whatever is lost in making the change from a conjunction of obligations to an obligation over a disjunct. The point of this objection seems to me right headed.

One potential cost of the transition – that the change loses us the capacity to explain the appropriateness of guilt – has already been addressed. But one might well think there are other costs in the offing.

Let me start with a abstract reply. Suppose that with each of the theories we are considering we can distinguish three things: (i) the evidence we have for the principles that constitute the theory, (ii) the principles themselves, that constitute the theory, and (iii) the conclusions these principles (in conjunction with extra-moral facts about the situation) support concerning our specific duties, rights, and responsibilities...

If the relations between (i), (ii), and (iii) were all entailment relations, then denying the existence of the dilemmas the original theory would have us acknowledge, would require substantive changes in the principles that constitute the theory, and changes in those principles would in turn require rejecting as misleading in some way the evidence that entailed the original principles. Under these circumstances, the costs, in substance and support, look as if they might indeed be high – high enough to give caution when it comes to claiming that the theory that does not allow dilemmas is on balance better.

In fact, though, the going contenders among moral theories (whether or not they allow dilemmas) don't exhibit the sort of tight entailment relations among (i), (ii), and (iii) that this worry supposes. In general, either the relation between the evidence we have, and the principles we embrace, is something shy of entailment (as when we rely on a supply of cases, real and imagined, in support of the claim that it is *always* wrong to treat others as a mere means), or the relation between the principles we embrace and the conclusions we draw concerning specific actions is something other than entailment (as when we come to think our duty always to respect others as ends requires that we not engage in euthanasia). And given this fact, abandoning the thought that an agent has incompatible obligations, and replacing it with the claim that they have instead an obligation to do one or the other of what we originally thought they had a specific obligation to do, need have little by way of ripple effects on back through the substance of and grounds for the theory.

Admittedly, one can imagine theories that differ from what I have characterized as the going contenders. One might, for instance, treat as foundational a set of principles that do entail incompatible obligations. In that case, any shift from the theory to a “fairer counterpart” will involve a substantial change in the theory that may too high a price to pay. The theory's advocate may end up, understandable (in light of their theory) thinking that the added fairness comes only with abandoning the core insight of the theory. For those who hold such theories, the argument I have offered won't go through. Perhaps there are more such theories than I think.

Even if I am not wrong about that, one might think there is a different way in which the “fairer counterpart” might end up being less good, morally, than the original, thanks to the new theory having morally unacceptable implications. Here is what I have in mind. If we move from holding there are two incompatible obligations, to holding that there is a single obligation to do one or the other of the things that we originally held were obligatory, aren't we simultaneously embracing the idea that the choice among the options can reasonably be settled by a coin toss. And isn't that morally repugnant, at least in situations of the sort faced by Antigone, or Agamemnon, or Sophie, or...



Fortunately, the repugnant implication doesn't follow. While a coin toss would, on the view I am advocating, lead one to satisfy the obligation in question (which is satisfied whichever disjunct one performs), there is plenty of room to hold that addressing the situation with a coin toss is unacceptable. For instance, it is easy to see arguments for thinking that a coin toss involves abdicating the burden of being sure that the options really are all permissible, or thinking it belies an appropriate appreciation of what is at stake under the circumstances, or thinking it violates an independent duty we have to face such choices in a certain way. Making the change from the original, dilemma-allowing theory, to its "fairer counterpart" leaves in place all the other aspects of the original theory that would underwrite the idea that tossing a coin is an inappropriate way to address certain choices. At the same time, it would leave in place whatever considerations there might be for thinking of other choices that tossing a coin is exactly the right way to make a choice. Often what is important in these situations is not whether one will get the right answer (according to those who believe in dilemmas we know we won't, while according to those who embrace the "fairer counterpart" that does not allow dilemmas, we know that we will) but with whether one will be arriving at the answer one does in a way that is justifiable. And whether coin tossing is justifiable or not turns on a range of considerations all of which will remain acknowledged by the new theory.

*Can morality be fair (or unfair)?*

I will close with one final worry about the substantive moral argument I have been offering. The argument works by turning moral standards on morality itself and one may well wonder whether it makes sense to think of the system of principle or norms that constitute morality as themselves open to moral evaluation. Aren't people, or institutions, the proper objects of evaluation as fair (or not), not systems of rules independent of their adoption and enforcement by people? Does it even make sense to think that a system of rules as fair independent of their adoption and enforcement by people?

Honestly, I am a bit torn. On the one hand, I think we regularly and understandably do talk of possible constitutions, laws, and systems of rules, as more or less fair, even when we recognize that no one is acting on or enforcing them. On the other hand, such talk does seem to travel with thinking of how the constitutions, laws, and systems of rules would play out, were they adopted and enforced.

In any case, I think that the argument I have offered can easily be recast in a way that would be compatible with thinking that unfairness occurs only at the hands of people and institutions. The argument would then run not via the relative fairness of the rules in questions, but the relative fairness of the treatment given at their behest and under their authorization, if accepted. The idea would then be that we should accept only those principles that have a claim on our allegiance, and whether principles have such a claim turns on the moral standing of what they would have us do.

Thought of in these terms, the gut reaction, turned in to an argument, would be that a set of principles that allow moral dilemmas would have us unfairly condemning and blaming people in ways that a the *fairer counterpart* would not have us doing. When the question is, which principles deserve our allegiance, I have argued in defense of the latter.<sup>20</sup>

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<sup>20</sup> Perhaps it is worth noting that the force of this argument diminishes (and may, but won't necessarily, disappear) when we are talking about *perplexities simpliciter*, which are dilemmas due to the prior wrong-dong of the agent. After all, in such situations the agent may have no grounds for complaint. Also worth noting is that the argument

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carries over too to questions of moral luck. That is not to say it shows that there is no such thing as moral luck, but that the question of whether there is turns, in part, on whether the principles that would countenance moral luck deserve our allegiance. Interestingly a number of arguments for and against thinking there is moral luck turn on whether we are justified in holding people responsible for things over which they have no control. See my