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Common morality: comment on Beauchamp and Childress

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Abstract The notion of common morality plays a prominent role in some of the most influential theories of biomedical ethics. Here, I focus on Beauchamp and Childress's models in the fourth and fifth edition of *Principles of Biomedical Ethics* as well as on a revision that Beauchamp proposed in a recent article. Although there are significant differences in these works that require separate analysis, all include a role for common morality as starting point and normative framework for theory construction in combination with a coherence theory of moral justification. I defend to some extent the existence and empirical significance of common morality, as delineated by Beauchamp and Childress in different versions, but criticize its normative role. It is neither convincing as a moral foundation nor well compatible with a standard coherentist justification. I suggest that the authors should give up the foundational account for a more modest account of common morality as resource of well-established moral insights and experiences, which have proved generally valid but neither sufficient nor infallible. Beauchamp's latest proposal appears as a step in this direction; indeed, it may be the beginning of the end of his common-morality theory.

Keywords Coherence · Common morality · Principlism · Reflective equilibrium

Introduction

One of the remarkable aspects of *Principles of Biomedical Ethics* is the continuous development of its theoretical framework during the course of five editions published so far [1–5]. This framework includes at least four central features. First,

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principlism: four prima-facie (i.e., non-absolute) moral principles–beneficence, nonmaleficence, respect for autonomy, and justice—constitute the substantive normative core for dealing with problems of biomedical ethics. Second, application: the principles need contextual enrichment and concretisation such as Henry Richardson's "specification of norms" in order to bring them to bear on specific cases and policies [5, p. 15ff, 6, p. 63ff, 7, 8]. Third, conflict solving: the plurality of prima-facie principles leads to apparent or real conflicts in specific contexts. Some of them may be solved by additional specification so that the scopes of the seemingly conflicting norms are separated from each other with respect to the issue at stake and, hence, do not appear conflicting any longer. In other cases the conflicts may be decided by "balancing" the "moral weights" of the particular pros and cons involved, i.e., by moral judgement or intuition. And fourth, justification: the selection of the four principles, their applications, and the additional specification and balancing used for solving conflicts in particular contexts may each require justification. In the first editions, Beauchamp and Childress proposed a general mode of deductive justification and pointed out that, while all moral theories have their merits and flaws, they may all lend support to some "mid-level" principles, rules, and concrete judgements [1, p. 40f, 2, p. 40ff, 3, p. 44ff]. The idea of convergence across theories and mid-level consensus is still present in the latest edition [5, p. 376f]; however, the model of justification has changed significantly. The authors now hold a dialectical mode of reasoning and have adopted in particular John Rawls' method of bringing "considered judgements" from all levels of reasoning into one coherent "reflective equilibrium." This coherence model of justification is combined with a common-morality theory that appeals to the idea of a set of fundamental moral beliefs shared by most people of a society or—according to a revised version—by all morally serious people of all societies [4, p. 100ff, 5, p. 401ff]. This supposed common moral ground is thought to be the substantive source and constraining framework for coherence formation, i.e., the moral foundation upon which their theory is built.

The notion of common morality plays a prominent role in some of the most influential theories of biomedical ethics (see, beside Beauchamp and Childress, e.g. [9–13]), as well as in some work in general moral philosophy and theology (see, e.g. [14]). The idea has, although in quite different ways, a long tradition in diverse moral theories that connect morality to human needs, human ends or human rationality, for instance in the theories of Kant, Hume, Locke, and Aristotle. In this article, I focus on Beauchamp and Childress's models of common morality. They introduced the notion in the fourth edition of their book and revised its meaning in the current, fifth edition. In a recent article entitled *A Defense of the Common Morality* [15], Beauchamp proposed a further development of the model that may possibly be incorporated in the next edition of *Principles of Biomedical Ethics*. My aim is neither a general critique of Beauchamp and Childress's principlist approach to biomedical ethics nor a general comment on the changes between different editions of their book. Instead, I shall discuss the significance and plausibility of different versions of common morality within their framework.

The analysis is made more difficult by the fact that the notion of common morality, although of central importance, is only relatively sparsely developed in

Beauchamp and Childress's writings. I believe that my readings are generally careful and fair, and I will defend them; however there is some room for different interpretations. I will give a clarification of my understanding of the different common-morality accounts that I discuss, but will, in the end, refrain from putting prime emphasis on exegetical questions. My primary goal is not to investigate what Beauchamp and Childress really had in mind when they presented different models of common morality; rather, I am primarily concerned with the plausibility of different common-morality accounts that I hold to be the most plausible readings of their works. These models are of systematic interest even if they would not represent Beauchamp and Childress's own views in every respect.[1]

This article is structured in three parts, each of which is dealing with one version of common morality. In the first part, I will comment on the view of common morality as shared moral beliefs of a society that was proposed in the fourth edition of *Principles of Biomedical Ethics*. I will reject this view as insufficient, not so much on grounds of the often raised objections of non-existence and indeterminacy of common morality but on grounds of its possible inconsistencies, cultural relativity, and lack of critical potential. In the second part, I will deal with the idea of common morality as shared moral beliefs of all morally serious persons that is offered in the current, fifth edition of Beauchamp and Childress's book. I will show that major flaws of the previous model are conceptually fixed; however only at the cost of severe problems to account for moral progress. Moreover, there is a strong risk of relapsing, in effect, into their previous account of common morality as shared moral beliefs. A further problem is that the proposed combination of common morality and reflective equilibrium does not seem well compatible for the purpose of moral justification. In the third part of this article, I will turn to the idea of common morality as shared moral beliefs of all persons committed to the objectives of morality that was presented recently by Beauchamp. Arguably, this model involves quite radical changes, shifting the focus of justification from shared moral beliefs to supposed objectives of morality and human flourishing. It appears to offer a less fundamental but more adequate account for common morality in the construction of a moral theory. This approach may, indeed, be no longer regarded as a common morality-based ethics.

There are significant differences between the three versions of common morality that require separate analysis. However, they all include a role for common morality as starting point and normative framework for moral theory construction in combination with a coherence theory of moral justification. I will defend to some extent the existence and empirical significance of common morality, as delineated by Beauchamp and Childress in different versions, but criticize its normative role. It is neither convincing as a moral foundation nor well compatible with a standard coherentist justification. I suggest that the authors should give up the foundational

[1] Since this article is systematically rather than historically orientated, I will neither spend much space investigating the origin(s) of the concept and notion of "common morality" in general nor the sources that may have influenced Beauchamp and Childress's account in particular. Gert and collaborators assume that Beauchamp and Childress adopted the concept of common morality from them [11, p. 126f, fn. 1]. Beauchamp, however, believes that he and Childress were the first writers in bioethics to develop a common-morality account, stimulated at the time by the work of Alan Donagan [16, p. 28].

account for a more modest account of common morality as resource of well-established moral insights and experiences, which have proved generally valid but neither sufficient nor infallible. Indeed, as I will argue, Beauchamp's latest proposal is a step in the right direction and may be the beginning of the end of common morality as foundation of his approach to biomedical ethics.

Common morality as shared moral beliefs of a society

In the first part of this article, I will discuss the common-morality account of the fourth edition of *Principles of Biomedical Ethics*. Although this is not the latest view of Beauchamp and Childress, it is of systematic interest, for the following reasons: (1) it is a natural understanding of common morality; (2) many people still ascribe it to Beauchamp and Childress; and (3) in the fifth edition, as I will argue in the second part of this article, the authors fall, in effect, back from their new model of common morality to their previous model. Thus, in order to develop my critique of Beauchamp and Childress's latest account of common morality, it is necessary to discuss their previous account first.

According to the fourth edition of *Principles of Biomedical Ethics*, common morality refers to the shared moral beliefs of a society: "A common-morality theory takes its basic premises directly from the morality shared in common by the members of a society—that is, unphilosophical common sense and tradition" [4, p. 100]. The common morality is a "social institution" comprising "socially approved norms of human conduct" that we learn along with other social rules, such as laws, when we develop beyond infancy [4, p. 6]. Beside other norms (e.g., human rights), the four principles are thought to be "embedded in these shared moral beliefs" [4, p. 100].

As cited, Beauchamp and Childress consider these shared beliefs as the "basic premises" of their ethical theory. More specifically, they are supposed to function as initial considered judgements for the formation of an ethical system in—or as close as possible to—the state of reflective equilibrium. In this way, the authors combine the idea of common morality with a coherentist justification of moral norms and judgements. The norms in the common morality are regarded not only as provisional starting points that may be left behind when the ethical theory develops; rather they are regarded as fixed checkpoints: "Any theory that eventuates in moral judgements that cannot be brought into reflective equilibrium with pretheoretical commonsense judgements will be considered seriously flawed" [4, p. 100].

Thus, common morality is for Beauchamp and Childress a moral foundation serving not only as a starting point but also as a constraining framework for ethical reasoning and theory construction (cf. [4, p. 102]). Call this the "guardrail claim."

Clarifying the model

To clarify this common-morality account, I start with some interpretations concerning aspects that are not explicitly explained by Beauchamp and Childress.

First, the "morality shared in common" should be understood, in my view, as shared moral beliefs rather than shared moral behaviour, because for the purpose of moral reasoning and theory construction it seems more relevant what people believe how one should act rather than how they, in fact, act.[2] Suppose, for instance, that some people commit adultery although they believe it to be immoral. If the other members of the society share this conviction (but not necessarily the behaviour), then the rule to be faithful is part of the common morality, although adultery happens, in fact, in that society.

Second, how much agreement is needed for a moral belief to qualify as part of common morality? Is one dissentient person in a society of many millions enough to prevent a moral conviction from being "shared in common" by the members of that society? This would probably put too much burden on the model of common morality and render it practically useless as well as theoretically unappealing. But once you allow for dissent you have to say something about the extent of tolerance the model should have. Any reasonable use of the notion of a "common," "shared" morality includes, in my view, moral beliefs that are at least *prevailing* in a society or culture, i.e., shared at least by a *vast* majority of people. A stronger reading would include only moral convictions shared in common by *virtually all* members of a society or culture, say 95 or even 99% of the people. I have no idea which version Beauchamp and Childress have in mind or whether they wish to leave this undetermined. But one should be aware of the significant conceptual difference between these two versions.

Third, is the level of social agreement the only criteria for belonging to a common morality; or are there further requirements with regard to authenticity, rationality, credibility, or other qualifications? It seems to be clear that Beauchamp and Childress do not hold an elitist conception. They refer essentially to a set of ordinary moral beliefs that ordinary people share ([4, p. 100]; cf. [15, p. 273, fn. 6]). There seems to be no special rational or motivational or informational requirement, no appeal to above average prudence or good will, to extraordinary moral strength, excellence or character, and no special demand on people's intellectual, emotional, and behavioural independence. Thus, any "conventional wisdom" may count as part of a society's common morality, provided that it is sufficiently shared in this society.

It would be incorrect, however, to reduce the non-elitist account of common morality to popular mainstream or middle-class moral views. Common morality is not the "morality of the commoners." It is the morality shared in common across all classes, throughout a society. Beauchamp and Childress offer two possible sources for such a cross-societal consensus: tradition and common sense. Both sources seem equally valid for the authors.

Finally, what exactly is a "society," the shared moral views of which constitute a common morality? Is the reference group politically, culturally, geographically or ethnologically defined? Does American common morality refer to all people living

[2] People's behavior may, of course, be of indirect significance for theory construction in so far as it often (although not always) corresponds to their beliefs. A behavior shared by most people is most likely not commonly believed to be immoral. This correlation, however, may not hold without exemptions.

in the U.S. or to all people having a U.S. passport, no matter where they grew up and live now, or to all people who feel they are Americans? Are Kurdish or Tibetan people, who do not have their own state, a society with an own common morality? Prior to reunification, was Germany one or two societies with one or two common moralities? Will any group or society do for the purposes of Beauchamp and Childress's common-morality account? There lies a problem.[3]

In my view, the most plausible answer Beauchamp and Childress can give is that "common morality" is not a natural kind with a given reference group; rather it refers to the same group to which the moral theory applies. If we want a moral theory valid for all people who live in the U.S., for example, then the appropriate common morality to serve as foundation and guardrail for this theory would seem to be the moral beliefs shared by those very people, and no other group. A moral theory that is designed to apply for another group, e.g., all Native Americans or all democratic societies in the world, would need to refer to common moral views in that group. Reading Beauchamp and Childress, one may get the overall impression that they focus on politically defined societies, i.e., nations, but in the end this remains unclear. Moreover, it is of course at issue whether it is reasonable at all to develop ethical reasoning and theories relatively to different groups. Such an ethical relativism seems, however, entailed in Beauchamp und Childress's common-morality account (in the fourth edition). I will take up this issue later.

Summarizing this section, I assume that common morality, in the fourth edition of *Principles of Biomedical Ethics*, is defined as (1) a set of moral beliefs (rather than behaviours) that (2) is, as a matter of empirical fact, shared by most or even virtually all people of a society (a group of people to which the moral theory applies), and (3) is not constrained by special demands on rationality or other qualifications. In the following sections, I will raise and discuss several objections against this common-morality account, defending to some extent the existence of a common morality, but concluding, contrary to Beauchamp and Childress, that the common morality is not suitable as a foundation and guardrail for moral reasoning and theory construction.

Objection of non-existence

To start with, the model is challenged on empirical grounds by some sceptics who, in the face of widespread moral plurality and disagreement in modern societies, doubt the existence of a common morality (see [10], [17], p. 339; cf. [18, 19]). They do not present any empirical evidence in favour of their scepticism, nor can I do so here to prove the contrary. Conclusive investigations of the distribution of moral beliefs in societies are not in sight, and such studies would be very demanding if feasible at all. Note, however, that Beauchamp and Childress are not bound to claim that each society stands united in its moral beliefs, sharing a comprehensive and content-rich vision of a good life. The common morality may well be incomplete, containing only a limited set of—perhaps mainly rather general and only loosely

[3] I am indebted to one reviewer, who pointed out this problem to me.

connected—moral beliefs which are not sufficient to create a full moral identity.[4] Given this more modest understanding, the existence of a common morality seems neither incompatible with moral diversity and disagreement in multicultural societies nor very unrealistic. For lack of conclusive empirical data, I will restrict myself to a couple of plausibility arguments.

The first is simply an appeal to common sense: there are areas of widespread moral agreement within and arguably even across societies, e.g., with regard to the disapproval of cheating, mobbing, robbing, hurting, killing, and other kinds of harming people. It is hard to believe that there can be any serious disagreement about the immorality of these actions, except for a few special situations in which one may have an adequate reason for doing so. The amount of shared moral beliefs is easily underestimated because most of these beliefs appear to be so natural and self-evident that we hardly think about them. Moral controversies, in contrast, receive much attention and may, therefore, be overrepresented in our perception.

My second argument refers to cooperation: although sceptics do not believe in the existence of a common morality, they usually defend the need, and the possibility, of a fruitful cooperation between people from different social, cultural, and religious backgrounds in modern societies.[5] If this is right—and I believe it is—then it seems that the moral differences are not so pervasive after all. People have reasons to cooperate with other people who have a different religion, culture, political preference etc., as long as the cooperation is compatible with their own important values and moral views. A vegetarian might well be willing to work for a non-vegetarian as long as it is not in a butcher's shop. A Roman Catholic physician might well be willing to treat atheists as long as they do not ask for abortion; and so on. One should expect a general correlation between people's willingness to cooperate and the extent to which their central moral beliefs are compatible. Thus, if critics believe in people's willingness to cooperate within multicultural societies, they should also believe in the commonality of moral beliefs across cultures.[6]

Of course, one always has to be careful in claiming the common acceptance of a particular moral opinion, especially if it is one's own opinion. There is a temptation to draw a picture of a common morality that is unduly influenced by how one would like to see it rather than how it, in fact, looks like. But we must not, on the other hand, draw the picture of a Babel of hopelessly and constantly conflicting moral voices in modern, multicultural societies. This seems to me a distorted view as well.

[4] Beauchamp and Childress make this point clear in the fifth edition of their book; it is less clear whether they hold such a thin account of common morality in the fourth edition.

[5] This point is stressed, for example, by Engelhardt [10, 17].

[6] To claim that societal cooperation is built on common moral views may seem—as one reviewer objected—to beg the question. Are not people often forced to act against their moral beliefs? This is no doubt true, especially in restrictive societies, but of course there are also constraints and coercions in democratic societies. For this reason, I have claimed a correlation between the *willingness* to cooperate and shared moral beliefs. In addition, I believe that the outcome of a more or less forced collaboration tends to be poorer than the outcome of a free and willing cooperation. As a consequence, one should expect a general correlation between the extent and quality of a society's collaboration and the amount of moral beliefs shared in common in that society.

Objection of indeterminacy

A second, and related, objection frequently raised against common-morality accounts is that if a common morality exists at all, its norms are not sufficiently determinate to be able to solve concrete bioethical problems.[7] Beauchamp and Childress readily admit the indeterminacy of the elements in the common morality: "[...] [S]ocial agreements, traditions, and norms are inherently indeterminate, thereby failing to adequately anticipate the full range of moral problems and solutions. Interpretation and specification of norms, reconstruction of traditional beliefs, balancing different values, and negotiation are essential" [4, p. 102].

To justify such interpretations, specifications, etc., Beauchamp und Childress refer to Rawls's method of reflective equilibrium, which I think reasonable, although there may be different and even contradictory equilibria that are defensible. Thus, the authors have a systematic way to enrich the common morality with more specific content, and they place considerable emphasis on this issue. At the same time, however, they seem to confirm the indeterminacy of the common morality and, hence, its limited significance for theory construction. If the common morality would be strongly underdetermined, consisting solely of rather general, vague, prima-facie binding norms, then the "guardrail claim"—that any moral judgement that is not compatible with common morality has to be considered "seriously flawed"—loses any bite, because there would be hardly any moral judgement not compatible with common morality. The decisive place of moral reasoning and justification would be at the level of specification and reflective equilibrium rather than at the level of shared moral beliefs. The fact that there are some very general moral standards shared in common by most or virtually all members of a society could be of general interest but would have only little impact on actual bioethical decision-making and policy formation.

However, I think that a somewhat stronger case can be made for common morality, at least empirically. Taking up the argument from cooperation, it seems to me that a society's cooperation is built not only on a few abstract and content-thin moral beliefs but on many particular moral views, rules, ideals, habits, etc., that are shared in common. This ranges from pure etiquette to aspects of good social practice, like tipping, up to highly value-laden issues as personal property, democracy, family structures, and others. There are also what casuists call "paradigm cases," i.e., detailed, content-full cases that serve as ideal-typical examples of moral or immoral conduct in certain contexts, e.g., the Tuskegee syphilis experiment on the "bad" side and Mother Theresa's efforts for the poor sick on the "good" side.[8]

That is not to say, of course, that all people in a society share a detailed and comprehensive morality, but that a society's common morality contains, arguably, a set of quite specific and thus, if taken as moral authority, significantly constraining

[7] Evans, for example, argues that "[…] while it could be empirically true that there is a common morality (although I am sceptical), if it exists it is at such a level of generality as to be worthless. The real moral action occurs at specification from that common morality, and the process of specification is not even claimed by proponents to be based on anything to do with how the public thinks" [19, p. 227].

[8] More examples are delivered by Carson Strong in [20, p. 42].

norms. Again, one has to be somewhat careful in claiming the commonality of particular moral beliefs, but in acknowledging limits and caveats, we should not make the common morality less than it is.

Objection of inconsistency

Having defended to a certain degree the empirical significance of common morality, I will turn now to a critical discussion of its normative significance. Some critics have asserted that a society's common morality contains inconsistencies (e.g., [21]). To prove this claim, one would have to show that certain moral beliefs (1) are shared in common in a society and (2) are inconsistent with each other. This is not an easy task, among other things because the rationality and consistency of moral reasoning is subject to ongoing philosophical debates. There are, however, examples of popular moral beliefs that appear for many people, upon reflection, as inconsistent.[9] It may seem inconsistent, for instance, that most people consider doing foreseeable harm as morally more problematic than allowing it, and allowing it as more problematic than not forestalling it. Likewise, most people believe that mercy killing is more problematic than letting someone die out of mercy. Most people are less concerned with future harms than with present harms, less with harms of statistical victims than with harms of identifiable victims, less with harms of animals than of humans, and less with other people's harms than with one's own harms.

Although each of these moral views would need a careful examination that cannot be done here and may well turn out to be consistent in the end, they highlight at least the *possibility* of widely shared moral beliefs that are inconsistent. The point is that there seems to be no intrinsic safeguard in Beauchamp and Childress's common-morality account against such possible inconsistencies. The authors acknowledge and even enforce this view, arguing that common morality comprises "an unconnected heap of obligations and values" that needs to be "rendered coherent" [4, p. 108].

Now, suppose for the sake of the argument that a society's common morality really does contain inconsistent moral beliefs. The interesting question is: why should this be a concern for adherents of the common-morality account that Beauchamp and Childress defend in the fourth edition of their book? The authors rely "heavily on ordinary shared moral beliefs" rather than on "pure reason, natural law, a special moral sense, and the like" [4, p. 100]. They hold that, "as we have often seen in history of ethics, the theory may turn out to be less clear and reliable for practical decision-making than the common morality" [4, p. 109]. As a consequence, they consider any theoretical judgement that cannot be brought in

[9] I address here the issue of substantive (or argumentative) rather than mere logical consistency. Logical consistency can be assessed fairly clearly (assuming standard logic); the lack of substantive or argumentative consistency is often much harder to prove, and many such objections really beg the question, being grounded on nothing but the cognitive dissonance (i.e., the intuitive feeling of implausibility) of the critics. However, I do not doubt that one can assess the substantive consistency of different moral convictions in the common morality with reasonable discursive means.

accordance with this pretheoretical commonsense as "seriously flawed" (guardrail claim) [4, p. 100]. If so, the very question is: why be afraid of inconsistencies? If, as Beauchamp and Childress claim, there is wisdom and experience in the common morality of a society, and if this common wisdom and experience is more reliable than rational analysis, then it seems wise to live with inconsistencies rather than being persuaded into a philosophical system that appears to be consistent but not commonsensical. This conclusion, however, is dubious.

That brings me to my objection. Unlike other critics, I am not just claiming that a society's common morality is flawed by inconsistencies. My criticism is more fundamental: taking the common-morality account and the guardrail claim seriously, the intellectual consequence, it seems, would have to be a denial of the relevance of consistency for moral reasoning and theory construction, relying instead on moral commonality. However, believing that commonality makes moral convictions more reliable than consistency appears to me as an over-optimistic and innocently trusting statement. The rationalization of moral issues has, no doubt, its limits and fallacies as well. But we do not want to give up critical thinking for a pure appeal to commonality. Too often in history, dominant moral views have turned out not to bear closer scrutiny.

The issue is obscured by the fact that although Beauchamp and Childress show considerable scepticism about moral theorizing, relying instead on pre-theoretical common moral views, they wish at the same time to combine their common-morality account with the coherence model of justification (i.e., Rawls's reflective equilibrium)—which is, of course, a highly theoretical model appealing to consistency: "Our method is to unite principle-based, common-morality ethics with the coherence model of justification […]. This strategy allows us to rely on the authority of the indispensable principles in the common morality, while incorporating tools to refine and correct its weaknesses and unclarities and to allow for additional specification" [4, p. 101].

This may appear, on first sight, as a reasonable balance between reliance on common morality and coherent critical thinking, but having now two standards, commonality and coherence, one needs to clarify their relation. To what extent should the process of reflective-equilibrium formation include revisions of common moral norms for the sake of overall coherence, and to what extent should common moral norms constrain the formation of a reflective equilibrium for the sake of accordance with commonality? How can common morality be a reliable foundation and a guardrail for theory formation and at the same time in need of revisions?

Beauchamp and Childress consider one of the "unresolved problems" of their theory to be whether it is possible to render the common morality coherent without reconstructing it so radically that it becomes "only a distant cousin" of the original [4, p. 108]. But why is this a problem at all? Why not be pleased with the distant cousin if it is more coherent? Apparently the authors are not prepared to give up their strong appeal to common morality although they concede that it needs to be "put into a coherent package" [4, p. 37]. On the one hand, common morality comprises an "unconnected heap of obligations and values" that needs to be "rendered coherent," they state, but on the other hand they also praise "the authority of the indispensable principles in the common morality." I do not claim

that this is a plain contradiction, but there seems to be some unresolved ambivalence in the author's attempt to unite the standards of common morality and coherence. All in all, it remains unclear how exactly the synthesis of both accounts is to be accomplished. I will take up this point in the second part of this article.

Objection of ethical relativism

A further objection against the normative significance of common morality is that it entails an ethical relativism that stands contrary to Beauchamp and Childress's own universal ambitions. If the model of common morality refers to shared moral beliefs of individual societies, then a given common morality may only have moral authority for the particular society it belongs to. The fact that some beliefs are shared in one society is morally irrelevant for other societies that do not share them. Søren Holm, among others, has forcefully argued that several views in Beauchamp and Childress's book reflect U.S.-American common morality that does "not travel well to many countries in continental Europe" [22, p. 333]. Indeed, especially their statements about limited obligations of beneficence [4, p. 263ff] and limited rights to health care [4, p. 355ff] seem to fall somewhat short of what most people in European states with a strong welfare tradition would probably demand.

Beauchamp and Childress acknowledge the possibility of some reasonable moral plurality, and some parts of their discussions are focused on the situation in the U.S. (e.g., the health care system). However, in the end they clearly do not want to restrict the application of their moral reasoning to the American (or any other) society. But if they claim universal validity for at least some of their conclusions (believing, say, that physicians in China and everywhere else are morally just as much bound to some specific requirements of informed consent as their American colleagues), then it seems clearly insufficient to take the basic premises of their theory directly from the morality shared in common by the members of a particular society or culture (cf. [4, p. 100]). Indeed, this seems so obvious that one can hardly believe that they really hold or ever held this view. If common morality has to play a foundational role within a universal bioethical theory, then it clearly must be a universal model as well.

As we will see, Beauchamp and Childress have clarified this point in the fifth edition of their book, and there are several places already in the fourth edition where they refer to "the" common morality as if they think of it as one single set of norms that holds across cultures and societies. In one text passage they explicitly state that "the principles of the common morality are universal standards" [4, p. 100f]. However, many other formulations in the fourth edition like "social consensus," "norms shared in the community," "socially approved norms," "social agreements" (see, e.g., [4, p. 102]) support a cultural- or societal-relative reading of common morality in that edition. Be that as it may, a discussion of the account of common morality as shared moral beliefs of a society is relevant even if Beauchamp and Childress never exactly held it, because many authors ascribe this view to them (see, e.g., [18, 23]) and because, as I will argue in the second part of this article, they fall, in effect, back to this position in the fifth edition of their book.

Objection of lack of critical potential

Finally, a further relevant objection against the common-morality account in the fourth edition of *Principles of Biomedical Ethics* is that it shields the dominant moral views and prejudices from criticism. If, as Beauchamp and Childress state, any moral judgement that is not in accordance with the common morality must precisely for this reason be considered "seriously flawed" (guardrail claim), then of course no ethics can remain that is critical of the prevailing moral views of a society (or even of all societies). But this is absurd. It must be possible to criticize shared moral beliefs.

This can be seen alone by the fact that Beauchamp and Childress themselves urge revisions of some prevailing moral views and practices in American society. They consider, for instance, the U.S. health care system to be unfair [4, p. 348f] and defend a framework for decision-making about life-sustaining procedures and assistance in dying "that would considerably alter current medical practice and guidelines" [4, p. 189]. Significantly, they do not appeal to the US-American common morality in these issues, because it would probably not lend particular support to their revisionary conclusions; rather, they appeal to the plausibility and coherence of their arguments.

Beauchamp and Childress suggest with reference to John Mackie that "common morality ethics does not preclude the possibility of reform," because moral reforms "are almost always carried out by appeal to justifications *within* rather than *beyond* norms already shared in the community" [4, p. 102, cf. p. 80f]. But this view suggests somewhat misleadingly that a society's common morality remains the same as long as its norms are only altered in scope and weight rather than being completely dismissed or completely new introduced. It is sound to say that the moral authority of a common morality is compatible with "reform" or "evolutionary change" in terms of clarification, specification, and elaboration of its content. But it does not seem sound to say that moral reforms usually consist only of this kind of change. Many reforms include clear revisions of shared moral beliefs.

For example, there have been dramatic changes in medical ethics in the second half of the past century that challenged, according to Beauchamp and Childress, "many prevalent conceptions of the moral obligations of health professionals and society in meeting the needs of the sick and injured" [4, p. 3]. Arguably, if medical ethicists would have taken the guardrail claim seriously, these changes of the "prevalent conceptions" would never have been possible. The same seems true with regard to revisions that Beauchamp and Childress propose, e.g. in public health care. Their call for a universal coverage of at least basic health care is of course not based on completely new moral norms that have been virtually inexistent in the U.S.A. before; but it is more than just a clarification, specification, and elaboration of existing beliefs. It is an appeal to social ideals which compromises rather than honours the beliefs in individual liberty and individual pursuit of happiness that constitute, to a considerable extent, the U.S. common morality. This compromise can only be justified if one does not take the guardrail claim strictly.

Some remarks of Beauchamp and Childress indicate that the guardrail claim is indeed not to be taken strictly, because common morality may itself be in need of

revision: "The common morality is not faultless or complete in its recommendations, but […] it forms the right starting point for ethical theory" [4, p. 6, cf. p. 100f]. If this was all they suggested, then it would of course be possible to criticize prevailing moral views and attitudes, but common morality would hardly have more than heuristic significance. If, however, common morality is "to play an essential role in ethical theory" as "constraining framework" [4, p. 102], then it seems virtually immune from criticism. But this is unreasonable. We must take seriously the possibility of a collective moral fallacy.

Summarizing the first part of this article, I conclude (1) that some contrary remarks notwithstanding, common morality as shared moral beliefs of a society or culture is a reasonable reading of the fourth edition of *Principles of Biomedical Ethics*; (2) that it is in general reasonable to assume the existence of such common moral beliefs although one has always to be somewhat careful with particular claims of commonality; (3) that there is some ambivalence and lack of clarity with regard to Beauchamp and Childress's attempt to unite the common-morality account with the coherence model of justification; and (4) there is nothing to say against the use of shared moral beliefs of a society as provisional starting point for ethical reasoning and theory construction, but it is not reasonable to ascribe them the role of a foundational, constraining framework (i.e., guardrail claim). The normative appeal to a society's shared moral beliefs runs the risk of lacking (1) sufficient concern for consistency and other elements of critical thinking, relying instead excessively on moral commonality and common sense, (2) sufficient validity for universal normative claims, and (3) sufficient potential to criticize dominant moral views and prejudices. For these reasons, I reject Beauchamp and Childress's common-morality account that they present in the fourth edition of their book.

Common morality as shared moral beliefs of all morally serious persons

In the second part of this article, I will discuss the common-morality model that Beauchamp and Childress present in the fifth edition of *Principles of Biomedical Ethics*. In that edition, the authors no longer define common morality as moral beliefs shared in common by most or virtually all people of a society, but as moral beliefs shared in common by all *morally serious* persons of *all* societies: "We will refer to the set of norms that all morally serious persons share as the common morality. The common morality contains moral norms that bind all persons in all places; no norms are more basic in moral life" [5, p. 3].

There are three major changes in the new model. Firstly, Beauchamp and Childress introduce the notion of "morally serious persons." These persons are—unlike amoral, immoral, or selectively moral persons—serious about "moral conduct" and about "living a moral life" [5, p. 3f]. I will discuss this notion in more detail later.

Secondly, the authors now consider the common morality explicitly as a universal morality. This implies the empirical claim that despite all moral plurality, some fundamental moral beliefs are, as a matter of fact, shared in common across all societies. Virtually everyone in every society "grows up with a basic understanding

of the institution of morality" knowing "not to lie, not to steal property, to keep promises, to respect the rights of others, not to kill or cause harm to innocent persons, and the like" [5, p. 3]. Of course, people who do not live a moral life may not accept these basic obligations of morality as guide for their own conduct, but *all those who take morality seriously* do. Beauchamp and Childress's view of common morality as universal morality also implies the normative claim that these fundamental moral precepts are *rightly* part of every society's morality, applying universally to each and everyone alike. Disregarding the demands of one of these precepts would indeed be a moral failure of anyone in any society; any debate about the universal normative validity of the common morality would be a "waste of time" [5, p. 3].

Thirdly, Beauchamp and Childress now distinguish explicitly between the common morality, which is one single universal morality, and different "community-specific" or "particular" moralities [5, p. 3, 15, p. 261].[10] The common morality is not a complete morality; it contains only a small set of general, basic norms that needs to be enriched by every society with a lot of concrete and content-rich moral standards that "spring from particular cultural, religious, and institutional sources" of the respective society [5, p. 3]. These additional, community-specific moral beliefs may be defensible or respectable; but they are not shared universally by all morally serious persons and, therefore, cannot be regarded as authoritative for all persons in all places but only for those persons or communities who share the particular sources of these beliefs.

The significance Beauchamp and Childress ascribe to this revised account of common morality for moral reasoning and theory construction has remained largely unchanged. The common morality is still meant to be "both the starting point and the constraining framework" of their principlist approach to biomedical ethics [5, p. 404]. It still "provides the basis for normative theses and [...] moral theory" [5, p. 4], and functions in particular as reliable source of considered judgements needed for the formation of a reflective equilibrium [5, p. 401]. That is, the new common-morality model remains united with the coherence model of moral justification. The guardrail claim can also be found again, although in attenuated form: any ethical theory that cannot be made consistent with pre-theoretical commonsense moral judgements "falls under suspicion" [5, p. 403]. Thus, the authors still appeal to common morality as foundation and guardrail for ethical reasoning and theory.

Clarifying the model: who is morally serious?

I will start my analysis of the revised common-morality account, as I have done with the previous one, by giving some explications that go beyond what Beauchamp and Childress explicitly state but what seem to be implied in their view. In this way, I attempt to present their model in the strongest way, based on what I take to be the most reasonable reading of their text.

[10] In order to stress that common morality is conceived as a singular entity, Beauchamp and Childress refer to it in a linguistically unusual way as "the" common morality.

It is crucial for the common-morality account of the fifth edition to determine "morally serious persons" in a non-arbitrary and comprehensible way. But who is "morally serious"? The general answer Beauchamp and Childress give is that these people have a stable disposition to act morally and to live a moral life. This is not to say that they always hold *morally correct* viewpoints. Morally serious persons are not infallible, but they always take *a* moral viewpoint, in contrast to possible non-moral views, and act accordingly. What is a moral viewpoint? Are "keep the Sabbath," "honour thy father and thy mother," "pay your taxes," "do not waste your talents," "observe the advice of your physician," "do not have premarital sex" genuine moral views? A systematic answer would require an elaborated concept of morality, including formal and substantial criteria that define its nature, meaning and content in contrast to non-moral realms of belief and conduct (e.g., religious, juridical, aesthetical, prudential). Beauchamp and Childress do not present such a concept and, therefore, are not able to determine systematically who is morally serious.

Instead, they give some examples of general norms that they think all morally serious persons accept, e.g., do not kill, steal, lie, cause pain or suffering, break promises, etc. This might appear as an empirical claim about beliefs all morally serious persons happen to share, but it is rather a statement of paradigmatic moral views that are, by virtue of their paradigmatic status (and in contrast to at least some of the examples in the preceding paragraph), necessary conditions for persons to qualify as being "morally serious." One should *expect* people to hold these views in order to *accept* them as morally serious persons.

Beauchamp and Childress do not, then, identify morally serious persons by using a well-developed concept of morality; instead they appeal to an (incomplete) list of norms that seem so deeply embedded in common sense, and so paradigmatic to morality, that it is hard to believe that there can be any morally serious person not acknowledging them. In the face of their fundamental evidence, the authors take these norms for granted as "institutional facts" of morality [5, p. 4]. In my interpretation, this is a *conceptual* claim. It means that the institution of morality is conceptually defined, among other things, by some content, viz. a set of substantive norms constitutive of morality. Due to this constitutional status, Beauchamp and Childress use these norms as a touchstone for moral seriousness; anyone who does not share all of them fails the test of being morally serious. In other words: morally serious persons are exclusively those persons who take all norms seriously that constitute or are essential for morality.

But how do we know whether a moral norm is part of the common morality? The general answer Beauchamp and Childress give is that the common morality consists of all those moral beliefs that are, as a matter of fact, shared by all morally serious persons in all societies. However, since a number of moral norms are conceptually *premised* as essential elements of morality in order to determine morally serious persons, it would be pointless to confirm empirically that these people share these norms. We do not need to investigate, for example, whether all morally serious persons accept the norm "do not kill humans" if we already assumed, on conceptual grounds, that only those persons who do accept this norm may qualify as being "morally serious."

Empirical investigations can only gain relevance with regard to moral beliefs that are not considered as conceptual preconditions of moral seriousness but are still, as a matter of fact, believed by all persons who qualify as being morally serious. Thus, there are potentially two groups of norms in the common morality: those determined conceptually as constitutive of morality and those discovered empirically.[11] Accordingly, the determination of the elements in the common morality has a logical order of three steps. In the first step, one needs to determine all moral beliefs that are essential for or constitutive of morality. These moral beliefs are, by definition, part of the common morality, and people must share them in order to qualify as being "morally serious." In a second step, it has to be investigated empirically who and how many people are morally serious according to these criteria. Finally, in the third step, one has to investigate whether these morally serious persons share, as a matter of empirical fact, additional moral beliefs, which would supplement the essential elements in the common morality that are determined in the first step. Those moral beliefs that only some but not all morally serious persons hold are part of a community-specific or particular morality, but not of the common morality.

Common morality and moral progress

I take this three-step procedure to be the most plausible reading of Beauchamp and Childress's common-morality account in the fifth edition of *Principles of Biomedical Ethics*. In this section, I want to raise and discuss a challenge this model faces with regard to the fact of moral progress.

Taken as a truly universal model, the common morality only contains norms shared by all morally serious persons across all times and cultures. Now, a number of moral norms gained central importance only recently in human history, e.g., equal rights for women, ban on child labour, respect for personal autonomy in medicine and other areas. Does the common morality contain such modern achievements of morality?

There seems to be a dilemma: if one assumes, on the one hand, that the common morality includes some modern norms, the consequence is that most, if not all, persons in former times were not morally serious because they did not hold them. This, however, seems odd, because many persons were, no doubt, sincere moralists, taking moral conduct and living a moral life very seriously. The British physician Thomas Percival, for instance, is generally respected for his seminal work on Medical Ethics in 1803, although he advanced the (today unacceptably paternalistic) view that physicians should give their patients hope and comfort rather than telling them the truth about their conditions. "In fairness to him," Beauchamp and Childress acknowledge that considerations of respect for the patient's autonomy

[11] Turner complains that Beauchamp and Childress use an a priori concept of common morality "in which empirical counterexamples are irrelevant" [18, p. 204]. Beauchamp rejects this claim [15, p. 403]. I suggest that both are half-right: those beliefs that are considered as constituting morality are taken to be valid a priori; the additional beliefs that may be shared by morally serious persons are to be discovered empirically.

"are now ubiquitous in discussions of biomedical ethics in a way they were not when he wrote at the turn of the nineteenth century" [5, p. 12]. If this is a valid excuse, then it seems that people in former times may well qualify as having been morally serious even if they lacked some moral views that are recognized as important moral achievements today. The same must be assumed if we believe that a considerable number of people today are morally serious; for it seems likely that most of us lack some moral considerations that will be regarded as important moral progress in some hundred or thousand years.[12]

If one assumes, on the other hand, that those moral views which gained appropriate recognition only recently in human history (or will do so in the future) are not norms of the common morality but belong to the particular moralities of modern (or future) societies, the implications may seem not convincingly either. For it seems that the common morality would be reduced to a collection of morally backward norms, lacking important moral progress. As a result, it would become questionable why we should take the common morality as our foundation and guardrail for ethical reasoning and theory, rather than a progressive, modern morality. Moreover, not including any moral progress into the common morality would presumably result in a very small collection of norms. Arguably, the more times and cultures are represented in the group of morally serious persons, the smaller will be the number of their shared moral views. Assuming that there have been many morally serious persons throughout human history and that there will be many morally serious persons in the future, truly universal norms shared without exception by all these persons may seem rare.

Thus, including moral progress as part of common morality seems odd because it excludes too many people from being morally serious. However, not including it also seems odd, because too many norms are excluded, making common morality appear morally backward. Perhaps to solve this apparent dilemma, Beauchamp and Childress view common morality as a rudimentary and abstract framework for concrete moral norms. This is indicated at some points in the book, but it is most explicitly stated by Beauchamp in his article "A Defense of the Common Morality" (which will be discussed in detail in part three of this article): "Whereas the common morality contains only general moral standards that are conspicuously abstract, universal, and content-thin, particular moralities present concrete, nonuniversal, and content-rich norms" [15, p. 261].

In this view, common morality and particular moralities are on different levels of abstraction. While norms in the common morality are stated in highest abstraction (e.g., "do not kill"), norms in particular moralities involve, at least implicitly, concrete definitions, specifications, examples, scopes, limitations, exceptions, etc., springing from different cultural sources (e.g., "do not kill unborn human life by abortion after the 12th week of pregnancy unless it is necessary to avoid a severe physical or psychological danger for the woman"). Even if there is no concrete and fully detailed moral norm on, say, the prohibition of killing, which is shared exactly and unanimously by all morally serious persons

[12] Some candidates for future moral progress are given by DeGrazia [23].

across all times and cultures, one may well believe that at least *some* version of this norm is part of every morality.[13]

In this way, one can make sense of the idea of universal moral norms, addressing at the same time their (quite different) cultural-specific shaping and implementation. Consequently, common morality, functioning as conceptual framework for many different concrete norms in different particular moralities, has relatively few abstract norms. Moral progress takes place at the level of particular moralities, while the common morality remains unchanged. The common morality is not, however, morally backward, because it covers—on an abstract and content-thin level—all moral change and diversity that takes place on the level of particular moralities. Accordingly, Beauchamp and Childress claim that "innovation in ethics almost always occurs by extending and interpreting norms that are within rather than beyond the common morality. […] This approach to construction invites evolutionary change while insisting that the common morality provides both the starting point and the constraining framework" [5, p. 404].

The problem I see with this solution of the dilemma is that the common-morality model becomes rather trivial, constraining hardly anything. For not only moral progress but also unacceptable moral views of all kinds are compatible with highly abstract moral norms like "do not kill," "do not steal," and the like. Take, for instance, the historical "Pirates' Creed of Ethics," which contained rules of conduct for a group of marauders in the Seventeenth century concerning mutual assistance, distribution of spoils, etc. Beauchamp and Childress state that this code of ethics, "although coherent, is a moral outrage" [5, p. 400], arguing that it involves immoral activities (e.g., plundering, enslavement) which violate the common morality. However, if the common morality consists only of highly abstract moral norms, it is *not* clear why the marauders violate it. They accept the norms "do not steal" and "do not deprive others of freedom," but they only specify them in a way that restricts their scope to the marauders' own community. If the common morality does not include sufficient specified norms, it cannot rule out this unacceptable restriction in the marauders' particular morality. Arguably, the same is true for virtually all deficient moralities; hardly anyone rejects general norms like "do not steal," etc., altogether, people only use and interpret them in unjustifiable ways.

I conclude in this section that Beauchamp and Childress's view of the common morality as an abstract framework solves the apparent dilemma of how to relate moral progress to the common morality only at the cost of its critical potential. The more abstract and content-thin the common morality is, the less it will serve as constraining framework.

[13] Perhaps a useful analogy to this idea can be made with regard to biological taxonomy. Even if there are no two individual birds that have exactly identical wings, beaks, or other bird features, it would make sense to say that all birds have these general features in common. That is to say that the terms "wings," "beaks," etc., denote—on a conspicuously abstract and content-thin level—universal features of birds. Similarly, it can make sense to say that morality has—on a conspicuously abstract and content-thin level—some universal features even if there would be no two particular moralities in which these features are exactly identical.

Common morality as the received morality in modern societies?

So far, I assumed that in the fifth edition of *Principles of Biomedical Ethics*, Beauchamp and Childress view the common morality to be genuinely universal and timeless, comprising a set of moral norms shared by all morally serious persons of all times and cultures. More precisely, this includes four assumptions. Firstly, one has to assume, on conceptual grounds, that the "institutional facts" about morality do not change (cf. [5, p. 4]). Basic norms that constituted morality a thousand years ago still do so today and will continue to do so a thousand years hence. Secondly, and as a consequence, the qualification of being morally serious does not change over time. Someone who qualified a thousand years ago as a morally serious person would qualify—with the very same moral beliefs and attitudes—today and in another thousand years as well. Thirdly, one has to assume, on empirical grounds, that all morally serious persons share some additional moral beliefs that, although not constitutive of morality, do not change over time. And fourthly, one has to assume, on normative grounds, that the moral validity of the norms in the common morality does not change over time. All norms in the common morality were valid a thousand years ago, are still valid today and will continue to be valid in a thousand years. Under this condition there is, as I have argued in the previous section, no satisfying model in sight. Either hardly anybody qualifies as being morally serious, or hardly any norm qualifies as being part of the common morality, or hardly anything is constrained by the common morality.

This result should make one rethink the alleged universality of the common morality. As stated, Beauchamp and Childress claim that the common morality contains moral norms that are "readily understood" by "virtually everyone" [5, p. 3]. However, does this hold literally for all places, say from a village in Papua New Guinea to New York City, and literally for all times, from the rise of human civilisation thousands of years ago to its fall at some time in the future, and literally across all past, present, and future human cultures and communities? Is the common morality really strictly ahistorical, timeless, and culturally independent?

A careful reading of the book raises doubts. The authors refer to moral opinions shared across societies and cultures, but they seem, in effect, to focus on a particular historical, political, and cultural setting. There is no appeal to ancient or future or marginal societies and communities; rather one gets the impression that the common morality coincides essentially with basic moral norms of modern societies—especially with the mainstream morality that emerged in many countries during the second half of the past century as basis for national as well as international politics and cooperation, most notably human rights. This received morality of modern societies is, of course, not universal in the sense that it is shared by all persons throughout human history who take morality seriously and who want to live a moral life. Many serious moralists of former times did not feel committed to moral norms that are considered to be indispensable today, e.g., respect for autonomy, gender equality or data privacy. But yet there is no claim of Beauchamp and Childress apparent that some morally serious persons might disagree in any respect with the received view of morality or hold views that are not compatible with it.

This gives rise to the supposition that their common-morality account may, in the end, not really be timeless and culturally independent but rather bound to modern and especially late modern times and cultures. Thus, common morality is conceived as a set of moral norms shared by all morally serious persons in modern societies but not necessarily at some other time or somewhere else. I do not claim that Beauchamp and Childress clearly hold this view; I only claim that this view is a plausible, although somewhat speculative, interpretation of their common-morality account in the fifth edition of *Principles of Biomedical Ethics*.[14]

According to this interpretation, the common morality is not an anthropological constant, but a historically robust set of norms central to the present human era. Although human rights and other "modern" moral norms, ideals, and virtues have been especially promoted by Western countries, I do not believe that they are exclusive Western concepts completely alien to other traditions. If these norms would not reflect other cultures' received moralities as well, it would have been not possible to reach an international consensus on them. This consensus exists, of course, only on a fairly abstract level. There is considerable variation in the specification of human rights and other basic moral norms between morally serious persons. However, it seems reasonable to assume that the received morality of modern societies is less abstract and content-thin, and more constraining, than moral norms that are shared by literally all morally serious persons across literally all times and places.

Referring to basic moral norms in modern societies appears to lead to a more plausible model of the common morality. The norms appear still abstract enough to function as framework for different concrete norms in different particular moralities. They cover significant moral differences between, and changes within, modern cultures without excluding too many people from being morally serious or too many norms from being part of the common morality. At the same time, the norms appear concrete and content-rich enough to set significant constraints. Arguably, the received morality of modern societies is not compatible with plundering and enslavement, for example. The historical Pirates' Creed is ruled out as well as other pre-modern codes of ethics involving, e.g., honour killing, forced marriage, or female genital mutilation. Thus, interpreting the common morality as a set of moral norms shared by all morally serious persons of modern societies, it seems that the common morality can be a plausible starting point and constraining framework for moral theory construction.

Some remarks of Beauchamp and Childress are in direct line with this interpretation. For instance, they state that the common morality "make it possible for persons […] to assert firmly that not all practices in all cultural groups are morally acceptable. Enslavement, racial and gender discrimination, and many other

[14] Interestingly, and in line with this interpretation, there are two small notes in other publications where the authors embrace moral historicism. In the third edition of *Principles of Biomedical Ethics*, in a footnote, they reject the idea that "moral theories are rooted in some ahistorical domain rather that in history and tradition" and support, without developing the notion, "a robust historicism" [3, p. 24, fn. 20]. To the best of my knowledge, there is no similar statement in any other edition of the book. Beauchamp, however, stated in his 2003 article that he is a "historicist and conventionalist in regard to the common morality," again without explaining this notion [15, p. 262].

unacceptable practices have appeared throughout history" [5, p. 5]. Note here, firstly, that the norms in the common morality seem not so abstract and content-thin after all, allowing for a "firm assertion" that many particular acts and practices are morally unacceptable. And secondly, the bans on slavery, racism, and gender discrimination are prime examples of specific modern achievements of morality, suggesting that the authors in fact focus on the received morality of modern societies.

Moral seriousness and moral commonality

There is, however, a problem. It seems fair enough (although debatable) to defend the received morality of modern societies as the best morality we so far have had in human history, as long as one takes seriously the possibility that it is not the best morality one *can* have. It would be arrogant to assume that no further moral progress is necessary or possible. In a thousand years, people may well look back on the morality of the present human era with the same mixture of appreciation and disapproval that we have now with regard to widespread moralities in former times. Therefore it is crucial to constantly question the received morality, and to have the conceptual potential to scrutinize and criticize it.

Now the problem is that the model lacks this very potential. If common morality is a set of norms shared by all morally serious persons of modern societies; if the morality of modern societies is still in need of improvement, then it seems unreasonable to use this set as foundation and guardrail for moral theory construction. Arguably, the model that Beauchamp and Childress put forward in the fifth edition poses, on a certain level, the same problems as their previous account of common morality as shared moral beliefs: cultural relativity and lack of critical potential. The fact that there is a set of norms shared by all morally serious persons of modern societies may seem irrelevant for other, e.g., future societies that may not share some of these views. If any ethical theory that cannot be made consistent with the received morality of modern societies must precisely for this reason "fall under suspicion" [5, p. 403] (guardrail claim), then it is of course unlikely that any ethics can be maintained that is critical to the received morality. But this seems unreasonable. It must be possible to criticize and revise the morality of the modern age.

There seems to be another problem here. The determination of moral seriousness needs to be independent from the commonality of moral opinions, or otherwise the model falls back into the view of common morality as shared moral beliefs, which was rejected in the first part of this article. However, it is my contention that such a relapse is hardly avoidable and that Beauchamp and Childress do not avoid it. To be sure, they do not fail to separate moral seriousness from moral commonality *conceptually*. Moral seriousness is defined, in the fifth edition of their book, with regard to moral norms that constitute morality, which is logically different from shared moral beliefs. However, it seems quite natural and tempting to assume that these norms find their expression in common sense. Beauchamp and Childress, at any rate, do not infer these norms from a systematic model of morality; rather, they

appeal to a list of norms that appear, as a matter of fact, so deeply embedded in common sense, and so paradigmatic to morality, that they reach constitutional status and serve as touchstone for moral seriousness.

Thus, the authors assume a strong *empirical* link between common morality and moral commonality, still appealing, in the fifth edition of *Principles of Biomedical Ethics*, frequently to shared moral beliefs. For example, they state that morality refers to "norms about right and wrong human conduct that are so widely shared that they form a stable (although usually incomplete) social consensus" [5, p. 2f]. The common morality supplies considered judgements, they maintain, which "typically have a history rich in moral experience that undergirds our confidence that they are credible and trustworthy. […] Any moral certitude associated with these norms should derive from beliefs that are acquired, tested, and modified over time" [5, p. 400]. They also argue that the common morality "is better suited to play a foundational role in bioethics" than "invariably more contestable" general ethical theories. "We cannot reasonably expect," they assert "that a contested moral theory will be better for practical decision-making and policy development than the morality that serves as our common heritage. Far more social consensus exists about principles and rules drawn from the common morality (e.g., our four principles) than about theories" [5, p. 404]. In these examples, Beauchamp and Childress clearly appeal to shared moral beliefs as foundation and guardrail for moral theory construction. This approach, however, is a relict of, or fall-back to, the model of common morality that the authors present in the fourth edition of their book—and liable to the same criticism.

I conclude in this section, that there are two grounds in the fifth edition of *Principles of Biomedical Ethics*, which give rise to the risk of relapsing into the account of common morality as (some set of) shared moral beliefs: (1) the interpretation of common morality as received morality in modern societies; and (2) the interpretation of common-sense moral norms as constitutive of morality. Both grounds, however, common sense and received morality, are insufficient for the foundation of moral theory.

Common morality and reflective equilibrium

Beauchamp and Childress combine the model of common morality with a coherence theory of justification [5, p. 403]. I shall now discuss the plausibility of this combination. The first thing to note is that there are several passages in *Principles of Biomedical Ethics* where they do not appeal jointly to common morality and coherence but only to one of them. For instance, they appeal to common morality but not to coherence with regard to the claim that the moral obligation of general beneficence is significantly constrained [5, p. 169f]. Conversely, they appeal to coherence but not to common morality with regard to their revisionary claims about end-of-life decisions and public health care [5, pp. 136, 242]. Thus, the systematic link between both concepts is not always apparent in the discussion of concrete issues in the central chapters of their book.

According to my understanding, the main reason for the combination of both concepts is to provide a constraining framework for reflective-equilibrium formation. Bare coherence may not be sufficient, as Beauchamp and Childress point out with regard to the historical Pirates' Creed [5, p. 400]. In order to avoid and to be able to criticize a set of norms that is coherent but morally defective, the authors suggest to initiate and to constrain the formation of a reflective equilibrium with considered judgements taken from the common morality. The idea is that we start with a set of basic moral norms that are beyond any reasonable doubt and make sure to keep fidelity to them as we develop a comprehensive and content-rich morality. With this framework, they suggest, we will be protected from going astray during the process of reflective-equilibrium formation.

I do not deny that the common-morality model can be supplemented with an appeal to coherence. But one has to realize that this appeal is different from, and even compromises the very idea of, standard coherence theories. The essence of coherentism is its anti-foundationalism. According to coherence theories of moral justification, there is no solid base, no fixed anchor; stability is reached by mutual support of the different components rather than by a foundation. Every norm, every judgement, however considered and plausible on its own, is subject to, rather than constraining framework of, a vigorous test for coherence and plausibility. Nothing is exempted from scrutiny.

Well-understood coherentism searches for a reflective equilibrium as encompassing as possible, taking into account particular and general convictions and arguments, moral theories, descriptive background theories, majority and minority opinions, and so on. It is not only open to critique from all sides and willing to far reaching changes in any direction if this increases overall consistency and plausibility; it is actively looking for new stimuli, suggestions, and challenges of the received view, constantly in search for improvement. This provides a huge potential for development. At the same time, coherentism does include the possibility that some norms and judgements turn out, upon ongoing reflection, as stable and uncontested, at least for the time being. But this has to be shown rather than premised from the beginning.

In Beauchamp and Childress's approach, in contrast, there is a "foundational role" for common morality [5, p. 404]. As an "anchor," "starting point," and "constraining framework" for theory construction [5, p. 404f], common morality is effectively immune to critique and revision. Clearly, this foundational approach is not in line with a standard coherence theory of justification. The requirement to keep the reflective equilibrium within the boundaries of the common morality is contrary to the radical scrutiny of coherentism. We cannot hold the idea that moral beliefs can only be justified with regard to their coherence and mutual support and at the same time grant foundational privileges to a certain set of norms that is supposed to be constitutive of morality.

It is, of course, possible to basically hold a common-morality model and to supplement it with specifications and details that fit this framework. This is what Beauchamp and Childress seem to suggest. It seems misleading, though, to call this a coherence theory of justification. To avoid major inconsistencies and incoherencies is, of course, a general requirement of rationality that applies to every type of

moral theory. However, treating coherence as a side constraint is different from justifying moral norms by virtue of their levels of coherence and mutual support rather than with regard to a moral foundation.

But is not coherence alone insufficient? Do we not need a moral foundation in order to exclude those sets of beliefs that are coherent but still morally unacceptable like the historical Pirates' Creed of Ethics (cf. [5, p. 400])? It would be out of the focus of this article to go into the details of coherentism. However, since Beauchamp and Childress have been motivated by this criticism to unite common morality with the coherence model of justification, two comments seem in order.

Firstly, it would be a mistake to assume that coherence cannot account for the plausibility of moral beliefs. On any reasonable coherentist account, coherence is more than mere logical consistency; it is substantial mutual support. If we find the Pirates' Creed of Ethics implausible, then this is exactly because its norms are not coherent with some of our beliefs in which we have strong confidence. Now, one could worry that a pirate may have strong confidence in other beliefs, which would justify the Pirates' Creed from his perspective. The core of this worry is the idea that justification is supposed to be a guide to truth, but coherence does not seem to guarantee the truth. This is indeed a problem for coherence theories of justification, but it seems to me that a common-morality account would be affected by the same problem. For although we may firmly believe that the Pirates' Creed violates against norms in the common morality, a pirate may have a different interpretation. Hence, Beauchamp and Childress's idea to provide a constraining framework for reflective-equilibrium formation may not lead to a better protection against fallacious moral views.

Secondly, even if the common-morality model would prove useful as starting point and constraining framework, such an approach would be, as I have argued, in conflict with the anti-foundationalist stance of coherence theories of justification. Beauchamp and Childress's combined model is not genuinely coherentist, but rather a foundationalist account which is supplemented with the requirement for a coherent explication of the common-morality framework. Since Beauchamp and Childress defend at length the coherence theory against other models of justification [5, p. 384f], this result should be of some concern for them.

Summarizing the second part of this article, I conclude that (1) in the most plausible reading of the fifth edition of *Principles of Biomedical Ethics* the common morality is determined in a three-step procedure, involving (a) the conceptual determination of all moral norms that are constitutive of morality, (b) the empirical determination of all people who qualify as morally serious by virtue of sharing all of these norms, and (c) the empirical determination of additional norms of the common morality that are not constitutive of morality but still shared by all morally serious persons; (2) if this account is taken as genuine universal in scope, it has severe problems to account appropriately for moral progress, facing the consequences that either (a) hardly anybody qualifies as being morally serious or (b) hardly any norm qualifies as being part of the common morality or (c) hardly anything is constrained by the common morality; (3) a restriction in scope to basic norms of the received morality of modern societies (a) is a plausible although somewhat speculative interpretation of the common-morality account of the fifth edition, (b) provides a

satisfying perspective to account for moral progress, (c) however only at the cost of relapsing into the account of common morality as shared moral beliefs that was rejected in the first part of this article; (4) Beauchamp and Childress's attempt to unite the common morality with the coherence theory of justification fails due of the incompatibility of the foundational role of the common morality as starting point and constraining framework with the anti-foundational stance of the coherence theory of moral justification.

Common morality as shared moral beliefs of all persons committed to the objectives of morality

In a recent article entitled *A Defense of the Common Morality*, Tom Beauchamp proposed a further development of the common-morality account that may possibly be incorporated in the next edition of *Principles of Biomedical Ethics* [15]. He defines the common morality as "the set of norms shared by all persons committed to the objectives of morality. The objectives of morality, I will argue, are those promoting human flourishing by counteracting conditions that cause the quality of people's lives to worsen" [15, p. 260].

The basic norms of the common morality are still the same (do not kill, cause pain or suffering, do rescue persons in danger, etc.), but they are now regarded as norms essential for keeping a society functioning and protecting people from chaos, violence, confusion, distrust and other social miseries. These norms still have moral authority as basic premises for theory construction, but not—as proposed in the fourth and fifth edition of *Principles of Biomedical Ethics*—because they are shared by most people of a society, or by all morally serious persons of all societies, but because they protect the quality of people's life: "What justifies the norms of the common morality is that they are the norms best suited to achieve the objectives of morality" [15, p. 266].

This "pragmatic justification" of the common morality, as Beauchamp calls it, is supplemented "by a coherence theory of justification for particular moralities," i.e., concrete and content-rich moralities of different cultures and societies [15, p. 266]. Norms in the common morality are universally valid, whereas norms in the particular moralities are only relatively in keeping with the particular and contingent framework of the respective societies or cultures. In addition, the common morality is abstract and content-thin, while the particular moralities are concrete and content-rich.

Beauchamp also stresses that the common morality is, as it stands, incomplete and insufficient: "Where we are in the common morality is not necessarily where we should be. […] To the extent that the common morality itself stands in need of improvement, one can hope to make those improvements by revising the normative guidelines necessary to achieve the fundamental objectives of morality" [15, p. 272].

I finish this article with brief comments on Beauchamp's new proposal. I shall not comment on the theory of the objectives of morality because, firstly, Beauchamp says hardly more about it than what I quoted so that any elaboration would be highly

speculative, and, secondly, because a discussion of the theory of the objectives of morality would be outside of the focus of this article on common morality. The general idea of the objectives of morality seems fairly clear, though: the human capacity to cooperate fruitfully for mutual benefit is constantly encountered by destructive and competitive human tendencies. Therefore, social cooperation is in need to be fostered and protected from such tendencies. Morality is a social institution serving this purpose; its objective is to protect social cooperation for mutual benefit and human flourishing.[15]

I shall briefly discuss some consequences of this theory of the objectives of morality for the common-morality account and for the model of justification.

A new role for the common morality

The first and foremost point to note is a quite significant change in the role of the common morality. In *Principles of Biomedical Ethics*, there is neither the possibility nor the need for a justification of the norms in the common morality because they serve as moral foundation, i.e., the ultimate basis for the justification of all other moral norms. In *A Defense of the Common Morality*, Beauchamp *does* give a (what he calls pragmatic) justification of the norms in the common morality: they are justified, because they serve the objectives of morality, i.e., promoting human flourishing by counteracting destructive human tendencies.

I conclude from this change that the common morality has been replaced by human flourishing as moral foundation and is left with the instrumental role to achieve the objectives of morality in order to promote human flourishing. This function is, of course, not exclusive to the norms in the common morality but applies to all moral norms, including those in the particular moralities. The special feature of the norms in the common morality is that they are universally accepted by all persons committed to the objectives of morality because they have shown in every well-functioning society that they serve this purpose. They "are what they are, and not some other set of norms, because they have proven that they successfully achieve the objectives of morality" in every society [15, p. 261]. The universal success in the service of human flourishing, and not the fact that they are shared, accounts for their special, albeit not foundational, moral authority.

Beauchamp explicitly rejects in his article any justificatory force of moral commonality: "The proposition that moral justification derives from custom or consensus is a moral travesty. […] [U]niversal agreement about norms that are suitable for the moral life *explains* why there is a common morality, but does not *justify* the norms […]" [15, p. 266]. Thus, the fact that a moral norm is shared by all persons committed to the objectives of morality does not by itself validate this norm. Rather, it *indicates* or *gives evidence* that the norm does, in fact, serve the objectives of morality. In virtue of this evidence, the common morality has a special

[15] In a footnote, Beauchamp acknowledges Warnock, Mackie, Hobbes, and Hume as the primary sources for his theory of the objectives of morality [15, p. 272, fn. 2].

heuristic significance for the validation of moral views and may well serve as starting point and primary normative framework for moral theory construction.

It is important to note, however, that the evidence for the universal validity of the common morality, based on shared experience and beliefs of all persons committed to the objectives of morality, may well be generally reliable, but not unmistakable. If we have strong reasons to believe that some norms not included in the common morality do serve the objectives of morality better than the norms in the common morality, then we have reasons to qualify the validity of the common morality and, if possible, to adjust it.

Indeed, as I quoted, Beauchamp for the first time expresses reservations about the moral sufficiency and appropriateness of the common morality. Although he is still confident that the norms in the common morality deserve moral credit and authority in general, he now puts them under scrutiny rather than taking them as a non-questionable foundation for theory construction. For example, he states that the common morality is insufficient because it lacks the norm of equal moral consideration for all individuals, especially "for slaves, women, people of ethnicities and other relevant parties" [15, p. 272]. According to Beauchamp, substantive changes and improvements in the common morality are possible in principle, although rather unlikely to occur in reality. For the time being, we have to acknowledge that where we are in the common morality is not necessarily where we should be.

The new role for the common morality is, of course, a fundamental conceptual change, and one may wonder whether the theory is properly referred to as "common-morality theory" any longer. This, however, is not necessarily for the worse of the theory. There are many undeveloped aspects, e.g., as to what constitutes human flourishing, what it means to be committed to the objectives of morality, and what historical and cultural scope the common morality has. But nevertheless I think in many respects, Beauchamp got his new common-morality account right. It accounts for the undeniable phenomenon of general moral norms that are widely shared across societies and cultures without succumbing to the temptation of taking them as moral foundation and benchmark for moral justification. The common morality can plausibly be regarded as a resource rich in moral experience which surely contains many important and valid moral insights. However, the validity of the norms in the common morality is not established by their commonality but by their effective service for human flourishing.

The model of pragmatic justification provides a conceptual tool for the defence and, if necessary, criticism of the common morality. I shall not discuss the plausibility of this particular theory of justification; certainly other theories (e.g., utilitarian, contractarian, coherentist) are worth considering as well. It is, however, important to establish such a tool in order to avoid an unduly appeal to shared moral beliefs (be it of most persons of a society or of all morally serious persons or of all persons committed to the objectives of morality). In significant contrast to the fourth and fifth edition of the book, Beauchamp does not rely exceedingly on the authority of moral communality and consensus in his article.

The new role for the common morality is much more modest but in my view also much more adequate than a foundational role. It remains to be seen whether it will be incorporated in the next edition of *Principles of Biomedical Ethics*. If so, it may

be considered as the end of Beauchamp and Childress's common-morality approach to biomedical ethics. As I have argued, this would be a turn for the better.

There is, however one remaining issue. We have seen in the second part of this article that the anti-foundational stance of the coherence theory of justification is not well compatible with the foundational role of the common morality in the fourth and fifth edition of the book. The same seems true for the combination of the pragmatic and coherentist justification that Beauchamp proposes in his article. According to him, the pragmatic justification applies to the norms of the common morality and the coherentist justification to the norms of particular moralities. However, there is no apparent reason why the justification of the common morality should not apply to particular moralities. For both have the same objective, namely to promote human flourishing.

According to the pragmatic justification, a moral norm—be it in the common morality or in a particular morality—is justified if and only if it maximizes human flourishing. This is arguably different from the coherentist view that a moral norm is justified if and only if it maximizes "the coherence of the overall set of relevant beliefs" [15, p. 268]. The coherentist refuses to commit herself to a moral foundation. What Beauchamp most likely has in mind is not a standard form of coherentism, but to basically hold a foundational theory of morality and to supplement it with specifications and details that fit this framework. He is looking for a coherent way to specify his principle of human flourishing much the same as, say, every utilitarian is looking, of course, for a coherent way of specifying her principle of utility. This, however, has nothing to do, and indeed is in conflict with, coherentism.

I conclude, in the final part of this article, that Beauchamp's latest proposal (1) turns towards a pragmatic theory of justification (appealing to the idea of human flourishing), (2) turns away from the appeal to moral commonality, and (3) turns from the view of common morality as moral foundation to the view of a set of well-established moral norms that are generally believed to promote human flourishing. This new role includes a need for a pragmatic justification of the common morality and opens up a critical view on possible limitations and shortcomings. Although in many respects undeveloped, this model seems to offer a less fundamental but more adequate part for the common morality in the construction of a moral theory. It may be the beginning of the end of Beauchamp and Childress's common-morality based theory of biomedical ethics—not necessarily to the detriment of their approach.

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