

Minimal Ethics

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Simply by analysing the moral problems of each and every one of us, Ruwen Ogien takes the stance of ‘minimal ethics’. His book reads like a good mystery novel in which the detective proves against all odds that there may be no crime, no victim, and no murderer.

Reviewed: Ruwen Ogien, *L'influence de l'odeur des croissants chauds sur la bonté humaine, et autres questions de philosophie morale expérimentale*, Paris, Grasset, 2011. 280 p., €18.50.

This book claims to be modest in scope, a simple ‘general introduction to ethics’ (p. 9) which, at first glance, limits itself to presenting the different plausible moral concepts and the basic problems of ethical justification. It is a book that philosophers, teachers and advanced students will readily place in the popular book category, almost something for the general public. This is precisely what makes it interesting, and should encourage both philosophers and non-philosophers to read it. Ruwen Ogien, a specialist in moral philosophy and promoter of minimal ethics, addresses his public in a style that is light, humorous and incisive, analysing the moral intuitions that are generally common to philosophers and non-philosophers alike, and which do not justify our placing “more weight on the judgments of this ‘moral elite’ than on those of each and every one of us” (p. 30).

Does this ‘general introduction to ethics’ nevertheless pursue a specific philosophical project, and can a theory be identified? It seems to me that it does indeed contain the outline of a doctrine, and that at the end of the tortuous path mapped out by Ruwen Ogien, we find a paradoxical affirmation: ethics are too fragile to be given foundations. The work thus provides the public with the conceptual tools to understand anti-foundationalism and moral minimalism, with one leading to the other.

Moral Thought Experiments

The book has two parts of unequal length, followed by a glossary and bibliography, which

allow us to explore the lines of reflection opened up by the author. The first part, being the longer of the two, shall be analysed here in greater depth. It has nineteen sections describing some of the most famous and fruitful experiments in moral psychology. This playful part first plunges us into the delights of moral dilemmas, where we play with life and death. You will thus have to choose whether to throw yourself in the water to save a child from drowning, or not jump in so as not to ruin your new shoes; whether to sacrifice a man to spare the life of five railway workers in a rail accident, or do nothing and keep your hands clean; whether for the rest of your life to be attached to a machine that gives you real, constant pleasure by giving your brain the impression that it is having pleasant experiences, or to lead an existence in which you experience both pleasure and pain but in which you are merely an agent, and so on.

Moral dilemmas are not the only type of thought experiment used by the author. He also puts forward tests of moral justification: if two adults have incestuous but consensual sexual relations, can the universal moral reprobation that such an act provokes be justified? Is it more acceptable to want to get rid of a violinist who has been surgically attached to your back without your consent, by condemning him to certain death, than to have an abortion? If everything is set in stone, are we still responsible for the harm we cause? And the good? As we can see, these experiments are heterogeneous, and are sometimes linked to more traditional metaphysical problems such as the issue of moral responsibility in the absence of free will.

The other experiments presented by Ruwen Ogien consist in placing individuals in situations that allow us to morally evaluate their behaviour: if a stranger asked you to give him a dollar, to what extent would the fact that you were in a pleasant environment infused with the smell of warm croissants affect the likelihood that you would do him that favour? If you were taking part in a scientific experiment in which you had to punish a stranger's wrong answers with an electric shock, how high would you let the voltage go before refusing to continue the experiment?

This first part plunges the reader into a highly perplexing situation, not only because the thought experiments the author invites us to experience are exotic to say the least, but above all because our moral intuitions are constantly called into question and our moral concepts are challenged. We should understand moral intuition to mean both a spontaneous moral judgment, prior to any reflection, and the perception of the moral properties of actions, which implies in this case a realist concept. Thus, when we believe we have found a moral theory suited to our

spontaneous convictions (whether it is hedonistic utilitarianism, the morality of categorical duty, or the ethics of virtue), the author varies the scenarios of the initial experiments in such a way as to lead us to express contradictory convictions. On one occasion we are utilitarian when, in a pilot's shoes, we take the decision to divert an out-of-control plane into the least populated residential area; on another occasion, we adopt a deontological position when, considering that others should not be treated merely as a means, we are reluctant to push a man onto a railway track in order to stop a tramway hurtling towards five railway workers. Ruwen Ogien employs a skilful strategy: he achieves the aim of captivating the reader and making him aware of the fragility of his intuitions.

Some might regret the systematically aporetic nature of these first sections, which the author often concludes with an open or rhetorical question, as in the section devoted to the amoralist: "Rather than getting involved in this kind of project [moral conditioning], would it not be better to leave the amoralist alone?" (p. 136). We already know the answer. We might wonder why Ruwen Ogien has not chosen to expose his position by explicitly supporting a doctrine or theory. Is it because his aim is not to create or enter into moral controversy? This would be consistent with the intentions he states in the preface and introduction: we should not expect him to teach us how to live, or to resolve complex moral dilemmas, but simply for him to give us the conceptual tools to analyse these cases and avoid making fallacious arguments.

Nevertheless, in some sections on bioethical questions, which are clearly important to him and on which his public commitment is well known, he breaks with that rule. In section 13 ("There's a violinist attached to your back"), which discusses abortion, the author puts forward his own theory: "Personally, I believe that women should be allowed to make the decisions they judge to be right in their particular case, beyond any moral control of their reasons. If they are free to have an abortion, they should be able to do so no matter what their motive." And he concludes, "What do you think?" (p. 176). This passage is nonetheless problematic, not because the author defends a particular moral position, since it is precisely the general lack of commitment that is regrettable, but rather because he does not provide any argument in its favour. Yet, when set out in this way, the theory proves to be a *non sequitur*: it is not because women are free (that is, have the right) to have an abortion for certain reasons (rape, serious foetal malformation, risk to the mother's life) that they should be able to do so for any reason; in the same way, it is not because one has the right to kill for certain reasons (self defence, a war) that one must have the right to do so for any reason. The basic argument, which would have been worth explaining, is that women,

as the main party involved in this act, are in the best position to assess the reasons for going ahead with it – and are even the only ones who have the legitimate right to do so. This clearly anti-paternalistic argument means excluding any reflection on human dignity that authorises serious (or not) restrictions on personal freedom. This does not, however, mean that one should renounce any moral evaluation of the reasons for killing, as the previous example would unfortunately lead us to believe.

Another source of annoyance lies in the apparent discontinuity of the overall line of argument: from one section to the next, the reader is buffeted about by the flow of a particular doctrine, and jostled by the contradictory results of such and such an empirical experience, without being able to separate the wheat from the chaff by means of his or her own intuitions. Section 19 – ‘Monsters and Saints’ – makes for particularly disconcerting reading. Ruwen Ogien shows that the ethics of virtue, which postulates the existence of moral characters, is not validated by the experiments of moral psychology, which, on the contrary, highlights the behavioural influence of the context in which we make a choice. The smell of warm croissants might therefore increase our empathy, just as the fact of being trapped in a crowd might diminish it. Yet if it is true that the smell of warm croissants has an influence on human goodness, are we still dealing with a moral problem? To be sure, this means that man is neither good nor bad by disposition or virtue, and even less so by nature, and that his behaviour depends on the situation. However, this has no impact on the moral standards that are recognised as valid, or even on the values that are accepted as correct. Or else we would have to say that the smell of warm croissants has an influence on our spontaneous moral judgment or our intuitions to the extent that we act as a saint in one situation and a monster in another. If this is true, however, it is not only the ethics of virtue that is condemned, but ethics as a whole. Besides, the way in which one responds to moral dilemmas (should I save the drowning child or protect my new shoes?) and the kind of judgment that one might make about a particular moral issue (is incest acceptable between consenting individuals?) also depend on circumstances such as not having recently been attacked by a child in the street, not having been abused by a parent, or not having been woken up by the smell of warm croissants coming out of the bakery downstairs.

If the author’s aim was to create confusion, he was successful! For it seems to me that this was indeed the aim of the first part, thereby justifying, at a second stage, a clarification of the ethical issues by means of a philosophical analysis of the ‘ingredients of moral cookery’.

Moral Minimalism

In the second part, the author clarifies the methodological problems that were intuitively established by the moral conundrums of the first part. Having recalled that the basic ingredient of any moral recipe is intuition (not saving a child when you have the opportunity is not moral) and rules of reasoning (duty brings power), the author goes on to discuss the relevance of thought experiments as a way of evaluating moral doctrines. What do we learn from subjecting individuals to questioning that focuses on virtual situations that are abstract and therefore lacking in determinations? The philosophical analysis of their results is even more problematic given that the decisions made by participants during thought experiments might be contradicted by the behaviour recorded in chosen real-life situations. Therefore, all the theology students in a representative group will recognise that we must help our neighbour and, for example, assist him if he falls over and is almost trampled. Yet, in a real situation, if those same students were in a hurry to get to an interview, only 10% of them would stop spontaneously to help the person in trouble. Does this pragmatic conflict mean that the thought experiment has no relevance? Does it mean that individuals are naturally bad, or self-interested, or even selfish? Should we conclude that they are hypocritical and that their responses to questions do not deserve to be taken into account in a moral survey?

The great strength of Ruwen Ogien's book is the way in which he tackles the deepest ethical and metaethical questions by examining a problem that might appear unimportant. Indeed, dealing with intuitions in moral philosophy brings us back to the problem of the use of facts in prescriptive theories. Moral intuitions, even if they have a prescriptive element (they point out what should be done, and what is allowed or forbidden), can also be dealt with as simple psychological facts. Should one therefore take into account the facts in moral theories? This question plays out on two levels: firstly on the ethical level, when moral concepts and principles are established on the basis of individuals' intuitions; and on the metaethical level, when we examine the rules of moral reasoning that forbid us to derive a convention from a fact (Hume's law) or to impose a duty that one is incapable of fulfilling.

With a dialectical rigour that is quite dizzying, Ruwen Ogien succeeds in showing that intuitions cannot be taken at face value and that their moral justification is subject to the diversity of philosophical interpretations: the same intuition on what is good or fair might be interpreted in support of utilitarianism or categorical morality; and no matter how highly valued an act might be by the majority, it is not necessarily good or fair. At the same time, he points out that we cannot

do without the facts altogether: indeed, it is difficult to morally justify an action that causes general disapproval. This argument is well known, but the interesting aspect is its strategic function in the author's overall approach. Whether intuitions may or may not be taken into account in moral justifications stems from an intrinsic complexity of the moral domain. It is not a question of a simple contradiction that violates the rules of moral reasoning and that can be shrugged off by reflecting more thoroughly on its subject. In fact, the rules of moral reasoning themselves fluctuate, and there are too many exceptions to be able to clearly distinguish the general domain of rules and the limited domain of exceptions.

What should be retained from this line of argument? One could interpret Ruwen's position as a form of scepticism, not Pyrronian but moderate, shall we say, which calls for intellectual modesty, since "nothing can avoid being challenged and revised" (p. 301). Each case requires a *current reflection* that is not limited to being merely an update of an abstract concept or intuition that applies to other cases and contexts. However, it would be quite wrong to read this work as a treatise of casuistry that might provide us with a collection of arguments ready to be applied to each case, and even less so as a sophistic teaching that offers arguments and counter-arguments according to the moral position that takes our fancy. The aim of the work is to make us feel that we know very little in the moral domain, and that we should abandon any plans to found absolutist moral conceptions that are mutually exclusive. It therefore takes up an antifoundationalist position, which is more broadly part of John Rawls' coherentism (p. 10) and is based on the method of reflective equilibrium. We can therefore understand Ruwen Ogién's interest in common moral intuitions as demonstrated in moral philosophy experiments, because reflective equilibrium centres on the coherence of our intuitions and principles.

The ethics of antifoundationalism, as it were, are rooted in a call for recognition of moral pluralism and tolerance. If Descartes had not hinged his entire philosophical project on the objective of giving morality guaranteed foundations, then it would have been possible to parody him by saying that what we must equip ourselves with – permanently – is a 'morality by provision', mindful of context, flexible and *minimal*. Besides, we know that Ruwen Ogién defends a minimalist ethical concept supported by the 'harm principle'. According to the principle laid down by John Stuart Mill in *On Liberty* (1859), only those actions that inflict harm on others can legitimately be punished and forbidden by the public authorities; there is a reference to this at the end of the book: "For minimalists, our basic morality is much poorer [than maximalist conceptions]. It only excludes actions that deliberately cause harm to others" (p. 304). The book's

general approach thus consists in deconstructing foundationalist moral conceptions in order to justify minimalism – an ethics without basis or foundation. Indeed, by confirming that our intuitions are sometimes consequentialist and sometimes deontological, by showing that the rules of moral reasoning are not engraved in the Tablets of Stone, Ruwen Ogien reaches the only reasonable conclusion: it is essential to be modest in ethics and not to adopt major philosophical systems that exclude *a priori* any rival moral concepts. Ruwen Ogien’s project can therefore be understood as an epistemological critique of the most robust moral theories which clearly show their methods and develop coherent arguments: those are the only ones that merit discussion, because they offer what Popper called ‘potential falsifiers’, that is, theoretical elements that are experimentally refutable. Ruwen Ogien’s strategy derives more from Popperian fallibilism than from scepticism, even though the moderate form of scepticism mentioned earlier coincides, in many regards, with fallibilism.

However, it is nonetheless legitimate to wonder whether there is still room for pluralism and tolerance when adopting minimal ethics. Is minimal ethics not just one option among many, or the only reasonable moral conception, excluding all others? From the point of view of minimalism, is Kantian morality still an available moral option, and can one apply it exclusively to one’s life? The same questions can be asked of the demanding utilitarianism of Bentham or Mill. It seems that, from the point of view of minimal ethics, and on the basis of antifoundationalism that supports it, we should not mobilise this type of concept in order to discuss sacrifice, abortion, euthanasia and other ethical concerns – the domain of the moral error, like that of goodness, is thus reduced to very few things. A way of avoiding this difficulty is to maintain, as Ruwen Ogien does, that the ‘harm principle’ is not a foundation on which a code of ethics can be constructed (even if it is minimal), but rather the moral foundation to which all one’s moral beliefs can be reduced and which one discovers much like a sediment lying at the bottom of the critical undertaking. By erecting key principles on more substantial foundations, the other ethical doctrines invent crimes that do not exist, but, in the end, they cannot withstand our well-trained intuitions.

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