

Michael Moehler, *Minimal Morality: A Multilevel Social Contract Theory* (Oxford: Oxford University Press, 2018), 260 pages. ISBN: 9780198785927. Hardback: £56.00.

Typically, theorists who take deep disagreements about morality and politics seriously aim to construct new ways of justifying rules and principles that can order society and regulate people's social interactions. This usually results in theories that prescribe how reasonable people can, despite their disagreements, endorse common rules and principles (e.g. public reason liberalism and political realism), or common procedures for selecting rules and principles (e.g. various forms of democratic theory). However Michael Moehler's book, *Minimal Morality*, takes a different approach. Rather than looking for new justifications of a society's rules and principles, the book provides an original and insightful case for a comprehensive two-level social contract theory which involves rules that govern most morally relevant social interactions and a principle of conflict resolution when there is disagreement about those rules.

As Moehler sees it, deep moral pluralism is a fact of modern societies or at least an imminent possibility that must be prepared for (pp. 6–11). This is the idea that modern societies involve people who do not share any moral ideals, or involve people who do not hold any moral ideals at all. This means that the strategy of political theorists thus far to construct new ways of justifying rules and principles grounded in the moral ideals *reasonable* people share will fail because all people simply do not share such moral ideals or are not reasonable such that they do not hold any moral ideals whatsoever (pp. 2–6). For Moehler, the question is then how can common rules and principles be justified in such morally pluralistic societies?

Moehler's answer is a two-level social contract theory which employs a traditional approach to morality to justify moral rules on the basis of non-instrumental moral reasons, and an approach to morality which justifies a moral principle of conflict resolution on the basis of purely instrumental reasons (pp. 10–11). Chapters 1–3 lay out the basic ideas of the book and canvas two extant approaches in the social contract tradition to deep moral pluralism. Chapters 4–6 lay out a rational choice decision model, show how it justifies a two-level moral theory, and illustrate the institutional demands of the theory.

To motivate and lay the foundation for the two-level moral theory, Moehler provides a compelling analysis of two ways that rational choice theory has been used in the social contract tradition: rational choice contractarianism (e.g. Hobbes and Gauthier) and rational choice contractualism (e.g. Rawls and Harsanyi). Here the former typifies a purely instrumental approach to morality because it involves showing how people can agree on rules and principles for the reason that achieving long-term peaceful cooperation will allow them to

survive and pursue their own interests (pp. 46–48). The latter typifies a traditional approach to morality because it involves showing how people can agree on rules and principles for moral reasons like “autonomy, equality, impartiality, and reciprocity” (p. 68). Moehler’s taxonomy and analysis of the various reasons why rational choice contractarianism and rational choice contractualism are problematic is systematic and insightful. Moehler argues that rational choice contractarianism either fails to justify substantive *moral* rules or principles, or has to assume an unorthodox view of rationality or shared moral ideal of fairness. However, Moehler argues that abandoning the pure instrumental approach to morality also doesn’t help. Rational choice contractualism requires strong moral assumptions in the rational decision model rather than merely a formal procedural device to justify particular substantive moral rules or principles of justice. However, given deep moral pluralism one cannot assume that all people will share those moral assumptions.

The preceding analysis sets the stage for Moehler’s argument for a two-level social contract theory and what many will find as the most interesting and innovative parts of the book. The core of Moehler’s two-level moral theory is the idea of combining both the pure instrumental approach to morality and the traditional approach to morality, to yield a comprehensive moral theory applicable to all morally relevant social interactions. In this theory, in most circumstances a first-level morality justified using the traditional approach to morality has authority, with a second-level morality justified using the pure instrumental approach to morality having authority only when the first-level morality fails to resolve disputes.

Moehler argues that his moral theory is ultimately “hands off” about the precise content of the first-level morality except that it will be “partially non-instrumental and to evolve over time dependent on the specific empirical circumstances of particular societies, such as their historical, cultural, and geographical contexts” (pp.140–141). For Moehler, Humean moral conventionalism and contemporary forms of social contract theory that make use of evolutionary game theory are prime candidates for this first-level morality. But ultimately, Moehler’s explanation of the first-level moral rules is brisk, and involves deferring to Hume’s arguments and contemporaries like Gerald Gaus and Ryan Muldoon. The reader may be left wondering here why any such commitment to the content of the first-level of morality, as minimal as it is, is required given the meat of Moehler’s argument is the defence of the second-level morality and its institutional demands.

Nevertheless, for Moehler, the spectre of deep moral pluralism is ever present, and so when in the specific cases of conflict where people do not share the moral ideals required for the first-level morality to work, they can make use of

a backup second-level morality. This second-level morality involves combining the pure instrumental approach of rational choice contractarianism with aspects of rational choice contractualism to justify a substantive moral principle of conflict resolution, the “weak principle of universalization,” which states that in,

“cases of conflict, only pursue your interests subject to the constraints that your opponents can (i) enter the process of conflict resolution at least from their minimum standards of living, if the goods that are in dispute permit it, and (ii) fulfill their interests above this level according to their relative bargaining power” (p. 146).

The core idea is that when people disagree deeply about morality they may resolve that particular conflict by bargaining unrestrictedly so long as their minimum standards of living are satisfied and the gains of bargaining are above this minimum. This is because the instrumental value of peaceful long-term cooperation for fulfilling one’s moral and non-moral goals justifies bargaining in this way.

Moehler defends the weak principle of universalisation by arguing that it is the principle that would be chosen in a hypothetical decision procedure characterised by two non-moralised premises about people and their deliberations in cases of conflict arising out of deep moral pluralism. Firstly, in such cases people are assumed to be prudentially rational which means they are forward-looking (e.g. they value their long-term interests more than short-term interest), value preserving their life, and instrumentally value peaceful long-term cooperation over continued conflict. Secondly, because of the uncertainty about the future, they are assumed to deliberate by placing themselves in the perspectives of others in future cases of conflict. Moehler argues that those conditions plausibly hold in cases of conflict arising out of deep moral pluralism and as such all people would endorse the weak principle of universalisation as a principle of conflict resolution. Moehler also argues that this principle is, despite its purely instrumental justification, still a genuine *moral* principle because it weakly expresses the moral ideals of “autonomy, equality, impartiality and reciprocity” (pp. 133–134). The principle expresses the ideals of autonomy by having people voluntarily agree to it, impartiality and equality by the nature of its decision procedure and universalization, and reciprocity by prioritising the minimum living standards of all. Although Moehler’s argument is clear and rigorous, the reader may be left pondering whether the argument truly takes the normative force of some people’s moral ideals seriously enough. For many their moral ideals do not merely lead to

disagreement with others but to doing the imprudent or to not cooperating with others (e.g. the devoutly religious or dyed-in-the-wool socialist). In those cases the justification of the weak principle of universalization seems more difficult.

With the open nature of the first-level morality and the minimalistic tenor of the second-level morality, one is left wondering what the actual real world implications of the theory are. Surprisingly, as Moehler sees it the two-level theory is best institutionalized in democratic societies through a welfare state with a free market system that is regulated in such a way that markets are as perfectly competitive as possible, but with “essential public goods” provided, “essential common goods” not overused, and an “unconditional basic income” at a substantive level (p. 209). This ensures that when people bargain they are assured their minimum standards of living are satisfied and that bargaining over the goods in dispute will lead to some gains. Moehler also argues that at the global level some form of world court, world police and global universal basic income may be required (pp. 215–216). Although Moehler explores some compelling institutional implications, one is left wondering how morally neutral they are. For instance, it seems plausible that libertarians or conservatives would decry Moehler’s institutional suggestions as forms of market socialism when a virtuous citizenry and charity would do just as well.

Overall, Moehler’s book is an interesting contribution to the stable of comprehensive moral theories that take deep moral and political disagreements seriously. Although it may be challenging for undergraduates, it will be more than suitable for graduate students wishing to engage with the contemporary social contract tradition. The book is thoroughly worth reading for its systematic analysis of that tradition and the ambitious way it aims to add to it.

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