

Procedure, substance, and the divine command theory

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Natural theology is still practiced as though substantive theological conclusions can be derived by a quasi-deductive process. Perhaps relevant *evidence* may lead to interesting theological conclusions – the fact of natural evil, or the cosmic fine-tuning we hear about in contemporary cosmology, both cry out for theological explanation.¹ I remain a skeptic, however, about the value of *a priori* methods in natural theology. The case study in this short discussion is the well known attempt to establish the logical incoherence of the divine command theory of moral objectivity. If skeptics can make good on this charge, they will have gone a long way toward undercutting a central tenant of western theism. I will argue, however, that the case against theologically based moral absolutism is not as simple as showing some internal paradox or logical tension.

1. Two controversial presuppositions

According to the divine command theory:

if God issues commands they create moral obligations; ... actions become our duty or become wrong, when commanded or forbidden, as the case may be, by God; ... man's duty is to conform to the announced will of God.²

Obviously such a theory presupposes both the existence of God and universal moral truth. It is hard to imagine two more disputed philosophical theses. We must look briefly at each.

Although I believe that *a priori* atheism rests on a fundamentally unsound metaphilosophy, I must concede that I, too, am a religious skeptic. My doubt is based on evidential considerations, however, not logical ones. I have argued elsewhere that the best explanation of the widespread pain, suffering, and general misery we see around us is the

tions he does might be discoverable by rational investigation. Most impressively, the divine command theory mitigates the “ontological queerness” of moral truth.

Mackie defends a constructionist and relativist meta-ethical position against moral realism, primarily on what he calls the “argument from queerness.”

[M]ore generally applicable, is the argument from queerness. This has two parts, one metaphysical, and the other epistemological. If there were objective values, then they would be entities or qualities or relations of a very strange sort, utterly different from anything else in the universe. Correspondingly, if we were aware of them, it would have to be some special faculty of moral perception or intuition, utterly different from our ordinary ways of knowing everything else.⁵

A secular universe containing objective moral values, indeed, seems ontologically queer. What could they be? Where do they reside? The divine command theorist, however, needs no recourse to a Platonic heaven with ideal forms of goodness and justice, theological heaven does just fine.

Legal concepts like commands, authority, and rules transfer beautifully to the theological context – a fact of considerable significance in the argument to follow. God has moral authority; he is omniscient and morally perfect, as well as being the creator. From this position of moral authority he authors moral laws – rules and principles that define our ethical obligations and restrictions. Divine laws have a different source than positive laws, but they are no more theoretically problematic from either an epistemological or metaphysical perspective. Such a view obviously commits this kind of moral realist to a more extravagant ontology than the secular moral skeptic. But the point of departure is theological not normative.

2. The *Euthyphro* dilemma

The most telling criticism of the divine command theory predates Christian formulations of the doctrine. In Plato’s dialogue, *Euthyphro*, Socrates poses one of the most famous leading questions in all of western philosophy. “Consider this: Is the pious loved by the gods because it is pious, or is it pious because it is loved by the gods?”⁶ Euthyphro had originally proposed (with much help) being loved by all of the gods as the defining condition of piety. Given this, he obviously should have chosen the latter answer to Socrates’ question – the pious is pious because it is

robust and unqualified forms, morality depends entirely on the will of God: all moral facts consist exclusively in facts about His will or commands.... [I]ts conformity to (contravention of) His commands is what alone *makes* it right (wrong): it is right (wrong) solely *because* He commands (forbids) it. Solely *in virtue* of His doing so.⁸

According to weak versions of the divine command theory God issues the commands that he does because of his independent knowledge of the nature of right and wrong. Such a view has certain attractions. Divine commands are now completely vindicated from any charges of caprice or arbitrariness. God has the best of all reasons for not commanding torture or forbidding charity – *It would be wrong to do so*. Furthermore, the theory makes good use of the divine attribute of omniscience. God's role in such a system may be much more than a middleman. Perhaps the true nature of right and wrong is so complicated that only any infinitely wise, and infinitely good, being can correctly appreciate it. God would certainly be worthy of our gratitude, love and respect for sharing this important bit of knowledge with us. Unfortunately, such a view faces two serious objections.

The problem of ontological queerness has been reintroduced. The theist's ontology now contains three distinct types of existence – the natural, and two distinct forms of supernatural existence. In addition to physical and divine existence, we now must include the mysterious realm of substantive moral truth. In some senses moral reality becomes even more ontologically problematic since it is binding on an omnipotent being. All of the old questions – is moral truth logically necessary?, were there ethical rules before the existence of humans? – and a host of others remain not just unsolved, but insoluble. New ones are introduced as well. Does moral truth exist in heaven? Do moral rights predate the creation of the universe? Is God, himself, morally bound by moral reality?

If there is such a thing as moral reality that is independent, not only of human attitudes and conventions, but divine existence as well, the whole notion of God's autonomy is called into question. Perhaps the attribute of omnipotence can be salvaged. One could argue that God has the power to do anything he wants, but that given his moral perfection and infinite knowledge of moral truth, he would never choose to do certain things. But, even if it makes sense to attribute omnipotence to a God who finds himself in such a situation, it seems odd to say that he has anything approaching free choice in his creative agency. Some of the most important aspects of this world are now the product, not of God's power and choice, but of this independently existing moral constraint. From an ethical point of view, of course, all is well. We are left with all of the advantages of moral realism. But the theological problems are immense.

Our worry in the above example is not one of logic, but rather something like justice. Suppose that I am filling a temporary position in my department, and am asked to write the job description for a national search to fill the position permanently. I write the job criteria so as to narrowly include my areas of research and teaching expertise. Perhaps I go so far as to stipulate that the successful candidate must have been born in Guam, educated in California, and be able to play center field on the faculty softball team. It is easy to imagine the job description being written in such a way that I am the only candidate who could possibly satisfy the formal criteria for the job. Our moral sensibilities would be offended if the job description were authored by one of my colleagues – we would easily see that it is a blatant attempt to circumvent the standards of equal opportunity. When I, myself, am the author our sense of outrage is compounded because the exercise is so self-serving. Strong versions of the divine command theory invite a similar worry.

There is a second problem hinted at in Rachels' discussion, however, that does have a more formal cast to it. There are all sorts of practical reasons one might have for obeying God's commands – fear, desire for social order, and perhaps love and respect. On weak versions of the divine command theory one might obey his commands out of deference to his infinite knowledge regarding moral matters. But what about the commonly accepted proposition that people have a moral obligation to obey the commands of God? Strong versions seem to encounter a logical problem with latter reason for obedience. Here it does seem correct to say that an action's being wrong is logically equivalent to an action being contrary to the commands of God, and hence, the claim that it is wrong to disobey the commands of God does reduce to the trivially sounding formulation – disobeying the commands of God is contrary to the commands of God.

4. Reason and authority

One finds the language of commands used in contexts quite different from theoretical accounts of religious ethics. The legal positivist tradition in jurisprudence, deriving from the work of Austin, has included much subtle analysis of the connections between commands and laws.¹⁰ The strategy in what follows is to take very seriously the similarity between the strong divine command theory's model of moral rules as commands from God, and the classical positivist's model of law as commands from the sovereign. More generally, I want to exploit the analogy between moral rules and laws. I believe that insights and discoveries in the field of legal scholarship provide surprisingly satisfying solutions to the many of the

miles per hour was a good law; my brother-in-law thinks it was a disaster. You think we need to introduce protective tariffs, the current administration disagrees. Here the issue turns on substantive virtues, or vices, like the wisdom of the policy, the workability of the statute, or the general effect on society of the legislation. Quite different procedural questions arise when the debate is the legitimacy, or legality, of some governmental action or piece of legislation, in the first place. Jones thinks that the congressional veto is constitutional, Smith believes it's clearly unconstitutional. I think the Fourteenth Amendment permits a federal right to choose statute, my pro-life adversary sees it as a clear infringement of state's rights.

Once armed with this distinction, many things become obvious. Procedurally correct laws issued by legitimate authority can be either reasonable or unreasonable. Bad, stupid, or unwise laws are still laws. More importantly for the present discussion, good, wise, or desperately needed social policies do not become laws until they are issued from legitimate authority – procedural hurdles must still be cleared. The substantive virtue of reason or wisdom, as well as the procedural virtue of authority or legitimacy, can be applied to actual and potential social policies and rules to produce something like the following matrix.

<i>Procedural</i>			
<i>Substantive</i>	<i>Legitimate</i>		<i>Illegitimate</i>
	<i>Wise</i>	<i>Unwise</i>	
	Good law	Bad law	Not law, but should be enacted
			Not law, and shouldn't be enacted

In most contexts where we characterize a law as being arbitrary or capricious our concerns are like the skeptic about the speed limit. We think that stated goals of the legislation are wrong-headed, or we believe that these goals will not be best realized through the law. Basically, our concern is that the law is unwise. Whatever the precise nature of the criticism it almost focuses on the substantive question of whether the law is reasonable or not.

The charge of capriciousness when directed against the divine command theory usually has a similar focus. The critic seeks to portray God as issuing moral rules for no good reason at all; the metaphor I used above was flipping a cosmic coin. Once we carefully distinguish substantive criteria from procedural, however, this charge loses much of its persuasive power. The theist should reject any suggestion that divine commands raise

moral rules and principles are infinitely reasonable. God's hands are not tied by an independent moral reality; none existed until he issued his commands.

Actual and potential social policies and laws fit into all four of the cells in the above matrix. Theists can be confident that divine commands would only fit into the northwest cell, they would be both procedurally legitimate and substantively wise. But the procedural criterion is quite different from the substantive one. God must *both* be omniscient, *and* possess the authority to issue moral rules. It is the independence of these criteria that give rise to Adams' paradoxical sounding claim that God *could have* "command[ed] me to make it my chief end in life to inflict suffering on other human beings, for no other reason than that he commanded it."¹⁵ He does not believe, of course, that God has issued, or ever would issue, such a command. But Adams believes that the divine command theory is committed to such a logical possibility. On procedural grounds this might be true. If God has the absolute authority to issue moral rules based on his will, then it would seem that if he willed such a bizarre command, there would exist a moral obligation to honor it. Two caveats are in order, however. First, as was I hope made clear above, Adams' scenario is merely logically possible. The divine attribute of omniscience guarantees that any divine command will not only pass procedural muster, but will also be substantively correct. Secondly, God's very authority to issue moral commands is tied in complicated ways to the substantive virtues of the rules and principles the authors. I will explore this last point in the section to follow.

5. God's moral authority and the rule of recognition

All this talk of God's authority to issue moral rules and principles brings us to the *a priori* atheist's second worry about the divine command theory. What is God's claim to law-giving authority? Philosophers of religion have answered this question in diverse ways. Geach thinks that it has to do with "Supreme Power."¹⁶ Both Brody and Phillips believe that it is in virtue of God's position as creator, and both stress the analogy with the authority inherent in parenthood.¹⁷ Adams stresses the notion of divine love.¹⁸ I think that God's authority to issue binding moral pronouncements must derive from his moral perfection. But here lies a profound problem. If God's commands define moral goodness, what sense does it make to say that God, himself, is morally good? This, of course, was Rachels' worry.

We need to once again mine the analogy between legal rules and

What is the authority of this rule, or the Constitution, itself? Certainly not the Articles of Confederation. Some might argue that the state ratification process provided some legitimacy. But what is the source of authority for that process? The legitimacy of the Constitution is a perfect example of what Hart identified as a “rule of recognition.”

The rule of recognition providing the criteria by which the validity of other rules of the system is assessed is in an important sense ... an *ultimate* rule: and where, as is usual, there are several criteria ranked in order of relative subordination and primacy one of them is *supreme*.²¹

Rules of recognition are not justified in terms of other secondary rules; they are ultimate and supreme. This means that their acceptance has to do with sociological and historical factors, not legal ones. At the time the Constitution was drafted and ratified there was no guarantee that it would be accepted – *recognized* – as authoritative for the past two hundred years by ordinary citizens and legal officials, alike. In fact, it was so recognized; this purely contingent and, indeed, surprising socio-historical fact transformed the mere words “supreme law of the land” into legal and political reality. Hart’s more general point is that any system of legal rules must have a basically similar story to tell. If I am correct in stressing the strong analogy between divine commands and legal rules, it is reasonable to suppose that the system of divinely authored moral rules must rest on a rule of recognition.

Many theists have flirted with an insight of an earlier system of legal positivism. Austin defined law as a system of commands issued by a sovereign backed by threats of retribution that are eventually obeyed as much from habit as fear. Here legal authority is traceable to political, and ultimately physical, power. I have already mentioned Geach’s appeal to Supreme Power as ultimate source of God’s moral authority. Those theistic traditions that emphasize hell-fire and brimstone, or the notion of an angry, vengeful God, carry this ground of moral authority to its extreme. One of Hart’s main criticisms of classical legal positivism was that obedience backed merely by fear and blind habit failed to account for the social and moral sense of obligation we commonly associated with valid legal rules. A model of divine orders backed by threats of damnation has an even more difficult time accounting for our sense of moral obligation.

Divine commands theorists might well explore the same sort of sociological account of obligation that Hart uses so well in legal contexts. The sense of fear, helplessness and awe could have been part of what led to unreflective obedience to divine commands. As humans became more reflective, however, they came to see that God embodied all of the

Human love might well count as morally good, not only because it is commanded, but also because it “approximates” God. Most of us are quite comfortable saying that Alston’s table is a meter in length because it approximates the length of the standard meter bar. But what about the meter bar itself? Wittgenstein thought it was a borderline case.

There is *one* thing of which one can say neither that it is one metre long, nor that it is not one metre long, and that is the standard metre in Paris. – But this is, of course, not to ascribe any extraordinary property to it, but only to mark its peculiar role in the language-game of measuring with a metre-rule.²⁵

The standard meter doesn’t conform to, and certainly doesn’t approximate itself. At the same time, it seems odd to say that it isn’t a meter long. We feel a similar sort of semantic unease in supposing that a morally perfect God is in conformity to, or approximation of, himself. But it seems equally strange to deny that he is perfectly good. I see a strong analogy between standard meters and rules of recognition – they are both ultimate, and must be “recognized” by rules or procedures totally outside the system or “language-game.”

If we accept Hart’s insight that no system of rules can be self-justifying, then it becomes less problematic that we can discover no external justification for the divine attribute of moral perfection, nor for God’s moral authority to issue divine commands. The theist can claim that one of the essential conditions of being X’s being a good thing is that it conform to the standards authored by God. Divine command theorists recognize this necessary condition. When the X in question is God himself he still satisfies all of the necessary requirements for being good. The moral obligation to obey the commands of God admittedly introduces a sense of circularity into the system. But, this is simply the rule of recognition and the fact that no system of rules can be self-justifying. If my earlier argument was successful, we have already acknowledged that divine commands must have content beyond the mere authority of God to issue capricious commands. Since God has good reasons for the commands he issues, the divine command theorist’s analysis of goodness includes substantive content beyond the mere procedural authority to issue orders. Thus, granting the partial self-certification in the rule of recognition, there are still lots of good reasons for the theist to insist on God’s moral perfection and the authority it would provide for his role as supreme moral rule giver.

This, by the way, is why the substantive content of God’s commands is tied to our current recognition of his authority to issue them. Regardless of the historical contingencies of the process of recognition, contemporary

- Divine Commands and Morality* (New York: Oxford University Press, 1981).
14. See, Hart, *op. cit.*, Chapter Five on the nature of secondary rules.
 15. Robert M. Adams, "A Modified Divine Command Theory of Ethical Wrongness," in *Religion and Morality: A Collection of Essays*, edited by Gene Outka and John P. Reeder (Garden City: Doubleday and Company, 1973). Reprinted in Paul Helm, editor, *Divine Commands and Morality* (New York: Oxford University Press, 1981), p. 84.
 16. Peter Geach, *God and the Soul* (London: Routledge & Kegan Paul Ltd., 1969). Reprinted in Helm, *op. cit.*, p. 172.
 17. Dewi Z. Phillips, "God and Ought," in I.T. Ramsey, editor, *Christian Ethics and Contemporary Philosophy* (London: SCM Press, 1966); and Baruch A. Brody, "Morality and Religion Reconsidered," in *Readings in the Philosophy of Religion* (Englewood Cliffs: Prentice-Hall, 1974). Both reprinted in Helm, *op. cit.*
 18. Adams, *op. cit.*
 19. Hart, *op. cit.*, pp. 78–79.
 20. *Ibid.*
 21. *Ibid.*, p. 102.
 22. William P. Alston, "Some Suggestions for Divine Command Theorists," reprinted in *Divine Nature and Human Language* (Ithica: Cornell University Press, 1989), pp. 268–269.
 23. *Ibid.*, pp. 268–269.
 24. *Ibid.*, p. 269.
 25. Ludwig Wittgenstein, *Philosophical Investigations* (New York: Macmillan, 1958), p. 25.
 26. Adams, *op. cit.*, p. 87.
 27. Many thanks to an anonymous referee for this journal for helpful comments on an earlier version of this article.

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