

The Intellectually Modest Criminal

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1. Introduction

Michael Smith's *The Moral Problem* gives an admirably straightforward condition for moral rightness: an act is morally right in circumstance C only if under conditions of full rationality we would all want to perform that act. I will assume that this condition, if met, would make acts objectively right and therefore vindicate a robust form of metaethical realism. There remains the question, however, of whether this condition can be met. Smith considers several arguments that it cannot, and this paper will argue that his response to one of them—Gilbert Harman's "successful criminal" argument—is inadequate.

Clear and straightforward as it is, Smith's condition for moral rightness is deceptively strong for it requires a full convergence of desires. It appears that moral facts can exist only if there is *unanimous* agreement about how we would want to behave if we were fully rational. The unanimity requirement leaves Smith vulnerable to sensible knave style objections. If someone can be fully rational yet not desire to perform acts in accordance with morality, then according to Smith's account, we should be skeptical about the existence of moral facts. Harman presents such an objection in the form of a successful criminal who does not observe the alleged requirement not to harm or injure people outside of his criminal organization. Most importantly, the criminal's disregard of outsiders is not due to inattention, failure to consider or appreciate certain arguments, ignorance of relevant evidence, errors in reasoning, irrationality, unreasonableness, or weakness of will. If this criminal is truly rational and still desires to steal

from others, then according to Smith's theory, there can be no fact about whether it is morally wrong to do so.

Harman recognizes that moral "absolutists" or rationalists may insist that this criminal is being irrational. But he replies:

On any plausible characterization of reasonableness or unreasonableness (or rationality and irrationality) that can be part of the scientific conception of the world, the absolutist's claim is just false. Someone can be completely rational without feeling concern and respect for outsiders. (Harman, 2000 [1985], p. 90.)

Smith counters that that his account of moral facts makes it easy to give an uncontroversial sense in which the criminal is being irrational. True, the successful criminal appears to be perfectly rational in achieving his chosen ends. According to Smith, however, his irrationality can be found in his "initial evaluative premise":

[The criminal] begins with the evaluative premise the has normative reason to gain wealth no matter what cost to others...This is equivalent to the claim that fully rational creatures would want that, if they find themselves in the circumstances of the successful criminal, then they gain wealth no matter what the cost to others. And the successful criminal's opinion notwithstanding, it seems quite evident that we have no reason to believe that this is true. Fully rational creatures would want no such thing. (Smith, 1994, p. 194-195)

Contra Harman, Smith argues that the successful criminal's belief that it is permissible to harm others for personal gain can indeed be traced to a failure to consider or appreciate certain arguments:

After all, he sticks with his belief that he has normative reason to gain wealth no matter what cost to others despite the fact the virtually everyone disagrees with him. Moreover, he does so without good reason. For he can give no account of why his opinion about what fully rational creatures would want should be privileged over the opinion of others; he can give no account of why he should be right, others' opinions should be wrong. He can give no such account because he rejects the very idea that the folk possess between them a stock of wisdom about such matters against which each person's opinion should be tested. And yet, ultimately this is the only court of appeal there is for claims about what we have normative reason to do. The successful criminal thus seems to me to suffer from the all too common vice of *intellectual arrogance*. He therefore does indeed suffer

from a ‘failure to consider or appreciate certain arguments,’ for he doesn’t feel the force from arguments that come from *others* at all. (Smith, 1994, p. 195)

Smith places a great deal of weight on this accusation of intellectual arrogance. It is the only support he provides for the claim that the successful criminal is irrational. Smith is right that anyone who dismissed the idea that folk possess stock wisdom and refused to consider the arguments of others would be irrational. But it is far from clear, or so I will argue, that the successful criminal needs to be so dogmatic about his position. The next section, then, describes a criminal who does not suffer from the all too common vice of intellectual arrogance—an intellectually modest criminal who dutifully considers and appreciates the arguments of his opponents.

2. The Intellectually Modest Criminal.

Ivan, my intellectual modest criminal is, like Smith, engaged in the pursuit of finding what fully rational people would want to do. Consequently, the unpopularity of his “initial evaluative premise” that he has reason to gain wealth at others’ expense is a source of deep concern. Ivan worries that he has not applied the method of reflective equilibrium successfully to his initial desire, and is therefore wrong to believe that this evaluative premise is justified. So Ivan puts his criminal career on hold. He reflects upon and critically analyses the justification for his premise for a full year. He takes philosophy courses in ethics; he reads Kant, Plato, Moore, Jarvis Thomson, Michael Smith, the moral sentimentalists, the Cornell realists. He finds the arguments to be ingenious but ultimately unconvincing. He becomes familiar with research in philosophy and psychology on human flourishing. Ivan is persuaded by much of this research. He believes that most people experience negative feelings of guilt or shame when they harm others, and that they derive pleasure from helping other people. He knows from talking to his

cousins that many people find the happiness of others to be intrinsically satisfying. Behaving in conventionally moral ways, Ivan thinks, would be conducive to human flourishing—for these people. Ivan’s career would not give them a life of deep fulfillment and satisfaction. These people, if they were fully rational, certainly would desire to refrain from gaining wealth at the expense of others.

Ivan, however, does not possess their psychological characteristics. Ivan does not experience guilt or shame when he harms others, even if the harm is significant. If anything Ivan receives a brief reward, a *frisson* of pleasure from going against the grain. External sanctions are not much of a problem either. Ivan has extraordinary talent for what he does, he is known as the Roger Federer of criminals. Of course, there remains some risk that he’ll be caught and put in prison, but this risk hardly outweighs the immense satisfaction he derives from his work. On the contrary, the tiny risk is what gives Ivan that extra bit of excitement that he craves. Indeed, Ivan loves his life; he cannot imagine a more fulfilling life than his own, even though he recognizes that most people would not find it to be so. So Ivan concludes, provisionally, that if he were fully rational, with the psychological characteristics he possesses, in his circumstances, he would retain his desire to gain wealth at the expense of others.

Still Ivan is not completely satisfied with his conclusion. Smith’s remark that the successful criminal can “give no account of why his opinion about what fully rational creatures would want should be privileged over the opinion of others” makes an impression on him. Ivan agrees with Smith that the folk possess a stock of wisdom between them, and so Ivan feels compelled to provide an account of why he is right and they are wrong. He recalls a previous point of disagreement with folk wisdom over the value of Mozart’s piano concertos. Everyone seemed to love them, but Ivan found them dull and a bit grating. Ivan figured he must be

missing something. So he took a course on classical music, he studied the structure of his pieces, the cultural and historical context of Mozart's work. He listened to the most highly regarded recordings. And still Ivan remained indifferent. He came to the conclusion that this disagreement wasn't a function of one side or the other being irrational—rather, some things are simply a matter of taste. Ivan was constitutionally immune to the charms of Mozart. Most people are not. Ivan suspects that the same kind of explanation applies to the issue of harming other people. Since Ivan's psychological characteristics seem relatively rare, it makes sense that most people would disagree with him about his initial premise that he has reason to gain wealth no matter what cost to others. It is extremely difficult to take the perspective of those who experience the world in radically different ways. Given that radically different ways of seeing the world exist, one should expect disagreements about artistic and moral matters, even when both sides consider the issues in the best possible faith. Ivan's account of why his view should be privileged over the folk's begins to take shape. Ivan's opinion may be privileged over the folk in this case because Ivan, and not the folk, is in the best position to understand his own circumstances.

Of course, Ivan recognizes that many disagreements *can* be resolved with dialogue, philosophical analysis, and the method of wide reflective equilibrium. So it is crucial that Ivan study the issue deeply before concluding that he is not being irrational. But Ivan has done this now. By some quirk of nature, he is unmoved by Mozart and unmoved by the suffering of other people. Ivan reasons that the best explanation for his disagreement with majority is not that he is being irrational, but rather that his set of traits and skills are radically different from those of the common folk (which prevent the folk from taking his perspective and appreciating his circumstances). With this account in place, Ivan can now endorse his conclusion: fully rational

people with his set of skills and traits would desire to sell their Mozart CDs and gain wealth at the expense of others. Of course, Ivan recognizes that his reasoning is fallible, that he may still be wrong. But he sees no reason at this point to believe that he is wrong.

3. Conclusion

One does not have to believe that Ivan has reasoned correctly in order to think that this portrait undermines Smith's response to Harman. One must only agree that if there is a mistake in Ivan's reasoning, it is not due to intellectual arrogance. And this point seems well established. Ivan's path to endorsing his initial premise shows no signs at all of intellectual arrogance. He does not reject that notion that the folk possess stock wisdom, and he gives the best account available for why so many people disagree with him about what a fully rational person would want in his circumstances. If Ivan acquiesced to Smith and folk at this stage, he would be an intellectual pushover.

As I see it, then, Smith has two options if he wishes to preserve his version of moral rationalism against Harman's objection. First, he can show some other uncontroversial way in which Ivan is being irrational, something that is compatible with Ivan's intellectual modesty. Second, Smith can make the empirical claim that it is psychologically impossible for someone to have the characteristics I've imagined Ivan to possess. As far as the first option goes, I'm inclined to agree with Harman that no broadly naturalistic account of rationality can reveal Ivan's disregard for other people to be irrational. I hasten to add, however (since I do not wish to display that "all too common vice"), that I may be wrong about this. But the onus is on Smith to describe precisely how Ivan is being irrational. The second option is one Smith may hesitate to embrace, given that he sees the discovery of moral facts as "a relatively *a priori* enterprise."

(Smith, 1994, p. 188). Nevertheless, I think it is the best option. If Smith can show that human beings *as we are psychologically constituted* would never desire to gain wealth at the expense of others if we were fully rational, it would support his claim there are moral facts about concern for others.¹ Showing this is a difficult task, however, one that requires significant *a posteriori* investigation.²

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¹ This revised account may be better described as a form of moral naturalism, however, rather than moral rationalism. Furthermore, it would open the door for the truth of moral relativism or subjectivism. If Mackie is right that this strategy assumes too uniform an account of human nature, then our empirical investigations would lead us to be skeptical about the existence of objective moral facts. (See Sturgeon, 2005, p. 112). See also Nichols (2004) who argues that the existence of psychopaths undermines Smith's view that people who do not care for others suffer rational deficits.

² See Doris and Plakias (forthcoming) and Stich and Doris (2005) for an account of how empirical or *a posteriori* investigation can illuminate metaethical debates.

