Moral Compromise

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Abstract
A moral compromise is a compromise on moral matters; it is agreement in the face of moral disagreement but where there is agreement on the importance of consensus – namely that it secures a morally desirable outcome. It is distinguishable from other forms of agreement, and an important distinction between moral compromise with public agreement and moral compromise with public disagreement is also made. Circumstances in which the former might be permissible are outlined, and the sense in which it is allowed all things considered to agree is made clear. The relevant discussions of Dan Brock and Mary Warnock on the role of the philosopher to public policy are critically reviewed. Finally, a brief list is offered of the considerations relevant to an estimation of whether and, if so, when such compromise is allowed.

Compromise is the making of mutual concessions by two or more parties who disagree in respect of some matter. An agreed outcome can only be secured if each is prepared to settle upon something that is for each party inferior to what was originally sought. Yet some such agreement is preferable to continued disagreement. Each party to the outcome gets less than first demanded. Nevertheless they obtain more than they would have done in the absence of agreed compromise. The parties thus have a partial coincidence of interests. They agree to disagree recognising that it is better for them to settle upon some shared understanding than to remain at loggerheads. The alternatives to compromise are the failure of either party to get anything; or an attempt by one or both to resolve matters in some manner other than compromise. One such is conflict that is a prospectively a zero-sum game wherein one party gains only at the expense of the other.

Of course in any compromise one party can get more out of the deal relative to the claim originally advanced than the other manages relative to her initial claim. At what point the difference is split may be closer to one of the disputant's starting point than to the other's. Nevertheless even the losing party in a disadvantageous compromise prefers the making of some deal over a continued stand-off or a resort to conflict. Compromise is the familiar stuff of everyday relationships, economic bargaining, as well as of high-powered negotiations between states and large corporate organisations. Compromise may

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thus determine who gets invited to a wedding, where a couple chooses to live, what sentence is agreed upon after plea-bargaining and where the borders between newly independent nations will be drawn.

It is frequently noted that compromise provokes both laudatory and condemnatory descriptions. Compromise is, on the one hand, evidence of weakness, duplicity, disloyalty, lack of integrity, pusillanimity, indecision and a failure to stick to one's principles; on the other it is a mark of a virtuous willingness to put cooperation, peace, social harmony and further progress above one's own narrow individual interests.[1] It is obviously also true that compromises may be made by thoroughly disreputable parties in order to secure evil outcomes. Competing criminal gangs can meet to carve up the territory determining, for instance, who handles drugs, who handles prostitution, and who needs to be eliminated in order to facilitate the deal.

By moral compromise I mean then not a compromise on non-moral matters that is morally commendable. Rather I mean a compromise on moral matters; it is agreement in the face of moral disagreement but where there is agreement on the importance of consensus – namely that it secures a morally desirable outcome. A good, central and simple example is the kind of compromise made by law makers or regulators on an ethically contentious issue. Imagine then – to simplify – that individuals within some rule governed cooperative venture are divided on whether or not to permit some activity and that the division is a straightforward one. Half simply want to allow the activity whilst the other half wish to see it prohibited. Everyone sees the advantages of some resolution to this conflict. A zero-sum outcome – outright prohibition or unfettered permission – would leave the losing half alienated and perhaps unwilling to continue on the same terms of cooperation with the other half. Since the continuation of the cooperative venture is to the advantage of all, there is reason to compromise. Perhaps, for instance, there is an agreement to permit the activity but subject to certain kinds of constraint, or to allow only certain forms of the activity or to do so only in certain circumstances.

We can thus imagine legal compromises being made on morally disputed issues. Consider then how time limits on legally permitted

[1] Martin Benjamin, *Splitting the Difference: Compromise and Integrity in Ethics and Politics* (Lawrence, Kansas: University of Kansas Press, 1990), Chapter 1 'The Meaning of Compromise'; Martin P. Golding,' The Nature of Compromise: A Preliminary Inquiry,' in J. Roland Pennock and John W Chapman (eds.) *Compromise in Ethics, Law, and Politics* NOMOS XXI (New York: New York University Press, 1979): 3–25.

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abortions might represent a compromise between those who would prefer that no terminations be allowed and those who would wish women to have an unfettered right of choice;[2] or how various forms of professional regulation of the doctors engaged in the practice might represent a compromise between those utterly opposed to voluntary euthanasia and those who would wish to allow anyone freely to use willing medical assistance to end their lives.[3]

I need to clarify what is meant in these contexts by moral disagreement and agreement. The disagreement is not ambivalence or uncertainty on the part of some. It is real and substantive disagreement. There is no 'overlapping consensus' in Rawls's sense. Rawls defines such a consensus as one that supports a 'political conception of justice' and comprises 'all the reasonable opposing religious, philosophical and moral doctrines likely to persist over generations and to gain a sizable body of adherents'.[4]

The disagreement may be in respect of the concluding judgement or about the reasoning that yields the conclusion. Thus two parties, Smith and Jones, may disagree on whether or not abortion is morally permissible; or they may agree that it is but disagree as to why. Smith may believe that the foetus does not have the moral status of a person and thus conclude that termination does not amount to murder. For her part Jones is willing to view the foetus as a person but is not prepared to conclude that abortion is murder, judging for instance that the woman's duty not to kill persons does not extend to an obligation to provide all the necessary means of the foetus's continued life.[5] More generally those who subscribe to different general moral theories – such as consequentialism or deontology – may reach the same judgments on some issues but by sharply contrasted argumentative routes. It is also possible that Smith and Jones might share the same broad ethical commitments but disagree about the empirical data that purports to support their respective conclusions. Thus Smith and Jones might both be willing to countenance capital punishment if it did indeed effectively

[2] Benjamin, op. cit., Chapter 5.

[3] Soren Holm discusses the nature (and in his view disadvantages) of compromise in the case of euthanasia in 'Euthanasia: agreeing to disagree', *Medicine, Health Care and Philosophy* **13** (2010), 399–402.

[4] John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 15.

[5] Jones might of course have been persuaded by the famous argument of J.J. Thomson in her 'In Defence of Abortion', *Philosophy and Public Affairs* **1** (Autumn 1971), 47–66.

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deter murders, yet contest the evidence that supported an overall assessment of its deterrent efficacy.

The meaning of moral agreement in the case of moral compromise needs carefully to be spelled out. Imagine a simple two-party moral disagreement. Whilst Smith thinks that Ø is permissible, Jones thinks that Ø is impermissible. They agree to compromise and the terms of the compromise are that Ø is permissible only within certain contexts or on certain terms. I want to distinguish between compromises with public disagreement from compromises with public agreement. In the first case, Smith and Jones can continue publicly to make known their respective views. Nevertheless for the purposes of settling upon a law or a rule or the terms of some shared practice both concur that it should be (something like) 'Ø is permissible only in circumstances C' that is determinative of matters.

Compromise with public disagreement is common in non-moral instances. Smith and Jones agree to spend 10 days on holiday together in Spain even though it is no secret (nor ever subsequently denied) that Smith only wanted a week away in a European city whereas Jones wanted two weeks on the beach. Of course continued insistence that the compromise deal is not what was originally wanted may sour the good taste of the consensus reached as a way forward. Compromises can be one off but frequently they form an essential element in the weft and weave of well-established and enduring social and interpersonal arrangements. It does not do in such circumstances to remind others continually of what is and has been in dispute. However the important point to make here is that public agreement extends only to the fact that a compromise has been made on certain terms; it is not agreement on the content of the compromise, rather it concerns the value of the compromise itself as the best possible outcome.

Compromises with public agreement are ones in which the parties represent their compromise as actual agreement on the content of those compromise solutions. They do not disclose the fact that there is continuing if private disagreement. It is this kind of compromise that I shall now want to discuss in more detail.

In any compromise the parties agree that there is a good reason to settle their dispute by means of a splitting of their differences. In compromises with public agreement they can agree that there is further reason not to make known their continuing disagreement. What might be such a reason? The principal one is that such public agreement secures good outcomes; indeed it is only if others believe that there is such agreement that the good is secured. Here is both a mundane domestic and a grander political example to illustrate what I have in mind.

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Two parents differ as to what to advise their troublesome teenager to do given that he is in danger of doing something they both recognise as deeply mistaken or dangerous. They also know that he will be impressed – if he is to be at all impressed – if and only if they maintain a common front. Thus they compromise but do not reveal that they have done so. They privately agree not to air their disagreement and to advise their son to do what neither of them in fact thinks is best. If the son is moved to do as suggested it can only be because he is given what is in fact a simulacrum of consensus. What he does is better that what, in the absence of countervailing parental advice, he was contemplating doing. This mundane example can be replicated in other instances of advice offered within personal relationships, such as a group of friends.

Here is the grander example. The members of an advisory body agree a recommendation in the knowledge that public unanimity is more likely to secure some desirable change in policy or law. The advantages of such consensus can be spelled out.[6] An advisory body has a certain prestige and 'weightiness' in virtue of its membership which may comprise individuals distinguished by their status and achievements in disparate fields. That weightiness, and that of any recommendations made, is enhanced if the committee can, given its members' differences of perspective and background, speak with a single voice. Conversely disagreement may give those whom they advise reason not to do anything or to do something that goes against the grain of what the committee, despite its other disagreements, can agree is poor. Consensus conveys the sense of wise counsel being offered above and beyond the fray of partisan politics; it also thereby serves to educate a public who may have good reason to be deeply suspicious of the ingrained disputatiousness of professional politicians.

Why should a philosopher as a member of such a committee and faced with this choice not engage in moral compromise with public agreement? In what follows and in order to be able to focus on the choice that faces the philosopher within the imagined situation I shall represent the compromise as one in which an individual relinquishes public support for her own view and endorses that of the others on the group. Of course this is not, strictly speaking, moral compromise with agreement. That is where all (or nearly all) members of a collective modify their own moral views in order to

[6] Some of these are outlined in M.B. Abram and S.M. Wolf, 'Public involvement in medical ethics', *New. England Journal of Medicine* **310** (1984), 628.

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ensure public unanimity on some matter. There is compromise in so far as each goes some way away from his or her position towards that of the others. In the way that I shall subsequently discuss possibilities I imagine that a single individual abandons his own minority view and supports the view held by the others within the group. This is not compromise inasmuch as only the individual adjusts his views. The others do not adjust theirs in the direction of his (although of course they could). I prefer this way of focussing upon the issues because it sharpens the question of what it costs a person morally to compromise with agreement and because it does not essentially depart from what is at stake in moral compromise, namely giving up one's initially preferred view in the interests of public consensus.

To see what is at issue it is important to distinguish moral compromise with public agreement from other possibilities. First, it is not the case that the philosopher has come to share the views of others on the committee having been persuaded over a period of time that he is wrong and they are right. He continues to believe that his own position on the matter under consideration is correct. Equally it is not the case that his disagreement is so minor as to make compromise no more than a token qualification of his own view which it is easy to concede.

Second, the object of the collective agreement is a real and substantive view. A group might equivocate in response to their disagreement and find a form of words that simply obscured what was at issue. There is, for instance, a case for viewing the Warnock Committee's assertion of the 'special' status of the embryo as the deployment of a linguistic construction that reconciled the opposing parties without resolving their disagreement.[7] Warnock deliberately set its collective face against addressing the critical question of when human life begins, a question some of its philosophical critics believed it had to answer.[8] Disagreement on this matter left the Committee divided as to whether or not the embryo had a moral status sufficient to render impermissible its use in medical research. Asserting that the human embryo had a 'special' status did not entail a conclusion either way. Yet it allowed both parties to believe that proper account had been taken of their views. For this reason

[7] *Report of the Committee of Inquiry into Fertilisation and Embryology* [The Warnock Report] (London: HMSO, 1984). Available at: http://www.hfea.gov.uk/2068.html.

[8] See, for example, Michael Lockwood, 'The Warnock Report: a philosophical appraisal', in his edited *Moral Dilemmas in Modern Medicine* (Oxford: Oxford University Press, 1985): 155–186.

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many characterise the assertion of the embryo's 'special status' as a 'fudge' or a 'muddle'.[9]

Third, moral compromise with public agreement is not the same as the making of a judgement that, all things considered, the agreed recommendation is in fact the best. To see that this is so it helps first to draw upon a debate within contemporary political philosophy about the meaning and nature of non-ideal theory, namely normative theory within the context of a real world whose character falls short of the idealised qualities that such theory may start from.[10] Such a falling short may obtain in virtue of the fact that significant numbers of individuals are not reasonable in the sense of being motivated to comply with fair principles of social co-operation; or in virtue of the fact that the material context is radically uncongenial (as would be the case with extreme scarcity or a natural catastrophe).

I am sympathetic to the view that normative theorists should seek to spell out what is best (and why) within a feasible set as this is spelled out by non-normative empirical theory.[11] One might then see going along with the recommendations of others on the committee as the best policy in non-ideal circumstances, namely those in which the others do not agree with me.

However these are not non-ideal circumstances as normally understood. The explanation of the deliberative impasses is certainly not to be credited to surrounding material circumstances. The disagreement is also reasonable or can be plausibly presumed to be. The philosopher does not see the others' views as being the outcome of collective or individual irrationality nor of an unwillingness to accept fair terms of social co-operation. The point is that the adjective 'reasonable' can characterize profound moral disagreement. Indeed this possibility is precisely what John Rawls understands as the enduring and significant 'fact of reasonable pluralism' which is characteristic of modern liberal democratic societies.[12]

The philosopher's view is not unfeasible in the sense in which an informed empirical theory might show it to be impracticable.

[9] See, inter alia, M. Fox, 'Pre-Persons, Commodities or Cyborgs: The Legal Construction and representation of the Embryo', *Health Care Analysis* **8** (2000): 171–181; M. Brazier, 'Regulating the Reproduction Business', *Medical Law Review* **7** (Summer 1999): 166–193.

[10] John Rawls, *A Theory of Justice*, Revised edition (Oxford: Oxford University Press, 1999), 215–218.

[11] For defence of this view see Adam Swift, 'The Value of Philosophy in Nonideal Circumstances', *Social Theory and Practice*, **34** (July 2008): 363–387.

[12] Op. cit., note 4, 36.

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Infeasibility might be true of proposed policies that are, for instance, hugely expensive and could never receive sufficient funding, or would require legal reforms that cannot be made without massive deleterious changes to the regulation of other areas of society, or are known to be opposed by all those who must put them into practice (and who will thus obstruct their realisation).

The problem is that the philosopher's view is unlikely to be officially endorsed since it lacks the support of others on the committee. However if the others had shared her opinion then her recommendation would not only be feasible but would have likely been adopted.

Nevertheless there is still a sense in which one might see going along with the recommendations of others on the committee as the best policy in the circumstances, namely those in which the others do not agree with the philosopher. Consider these remarkably similar two statements, both from discussions of compromise, of an important distinction between:

> what one judges ought to be done about a matter that happens to be in dispute leaving aside any consideration of the fact that there *is* a dispute; [and] .. what one judges ought to be done, *all things considered*.'[13]

> what [two parties] *believe* ought to be done, leaving aside for the moment that they disagree and that the circumstances of compromise obtain … [and] what each *judges* ought to be done when all things, including their disagreement and the circumstances of compromise, are considered[14]

The use of this distinction might lead one to conclude that anyone in a minority on a committee could (and perhaps should) come to judge that the majority decision is, all things considered (where 'all things' includes the critical fact of disagreement), in fact the right one. But this is not what moral compromise with public agreement amounts to. This is a continued belief that one's minority view is correct combined with a belief that there may be good reasons not publicly to declare as much. The phrase 'what ought to be done' used in both of the above statements is ambiguous. In particular the 'what' that 'ought to be done' is ambiguous between the recommendation or policy to be adopted and the public stance taken towards the recommendation or policy. Put another way there is a

[13] Arthur Kuflik, 'Morality and Compromise', in J. Roland Pennock and John W Chapman (eds) *Compromise in Ethics, Law, and Politics*, 51.

[14] Benjamin, op. cit., 36.

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crucial difference between thinking it best to recommend the policy and thinking the policy the best to recommend. The statements above are perhaps best understood as suggesting that, all things considered, one could and perhaps ought to judge that the policy of the others is in fact best. Moral compromise with public agreement is the endorsement of a view that one does not in fact endorse.

Put yet another way there is a distinction between the reasons one might have for holding the views that others subscribe to and reasons that one might have for stating that one does hold the views to which other subscribe. The fact of disagreement, when it is included within the all things to be considered, does not give me reasons of the first kind; it does give me reasons of the second kind.

Before considering what kinds of reason of this second kind it does provide it is important to make it clear why it does not give me a reason of the first kind, namely a reason to hold the views that the others hold. The mere fact of disagreement is insufficient reason to give up my opinion. After all I know that it is true of any view to which I subscribe – including those to which I am most strongly wedded – that somewhere others, indeed many others, gainsay it. This is true given the global reach of the group within whom a possible source of disagreement may be found, and however reasonable my view seems to me.

What difference does it make that the disagreement occurs within a group of whom I am a member? Of course we all wish not to be the odd one out. But a desire to conform is, of course, a bad reason to adjust one's opinions.[15] That my co-members have distinction and attested achievements in their respective fields might give me reason to reconsider my differences with them. It is no small matter that we do disagree, and I should ensure that I do indeed have sufficient grounds for continuing to believe that I am but they are not right. Crucially their distinction gives me reason to think that they might have good reasons for believing what they, but not I, believe. Yet it is those reasons – if they exist – and not the mere

[15] The evidence that individuals are strongly minded to conform their publicly stated views with those of their peers was provided by the celebrated Asch conformity experiments of the 1950s. See S.E. Asch, 'Effects of group pressure on the modification and distortion of judgments', in H. Guetzkow (ed.), *Groups, leadership and men Pittsburgh* (PA: Carnegie Press, 1951): 177–190; 'Opinions and social pressure', *Scientific American*, **193**, (1955): 31–35; 'Studies of independence and conformity: A minority of one against a unanimous majority' *Psychological Monographs* **70**, (1956) (Whole no. 416).

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fact of the distinction of those who might have them which would provide me with warranted grounds for abandoning my opinion.

Before evaluating any decision to engage in moral compromise with agreement it is important to be clear about the kind of situation in which it might be considered appropriate. The advisory committee whose unanimity of approach to some matter is essential if its advice is to be accepted is the best illustration of what I have in mind. Now a group might adopt procedures, agreed in advance, for the resolution of disagreement. Thus it could simply agree to abide by majoritarian voting. This might combine either with public disagreement or public agreement. The former is illustrated in the case of advisory committees by the publication of minority reports. The latter is nicely illustrated by the doctrine of collective responsibility. This is the constitutional convention operating within the Westminster model of governance whereby members of the executive agree in advance and as a condition of membership that they will not publicly dissent from its decisions. Indeed they are expected in vote in the legislature for measures they have privately opposed in executive discussions. Resignation from the executive is viewed as the price that must be paid for a permission to express one's disagreement.

Thus the question is whether someone, a philosopher for instance, who is a member of an advisory committee has sufficient reason morally to compromise with public agreement where this amounts to a binding of oneself to the public profession of what one privately disputes in the manner of those who follow the doctrine of collective responsibility.

Moral compromise with agreement is insincere. The individual publicly says what he does not in fact believe. Compare these two possibilities:

> TACTICAL VOTING: There are three candidates – A, B, and C. A is in my view the best. However C is the worst and currently attracts the most support. B would stand a good chance of defeating C if those who would otherwise vote for A switch their allegiance. One thus has reasons to vote for B not because she is the best candidate but because, all things considered, she is the best feasible candidate, that is the best candidate with a reasonable chance of being elected.
>
> TACTICAL MARRIAGE: I love A but I know that A will never accept my marriage proposal. I know that B whom I do not love but whom I prefer to C will marry me. However I know that none of them will accept my proposal unless I affirm that I love her. Thus I can marry someone only by affirming

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> what I do not believe namely that I love her to the exclusion of the others. If I have reasons to marry someone there are reasons to propose to B who is not the best woman to marry (A is) but the best person that I have a reasonable chance of marrying.

The two examples differ in this important respect. My casting of a vote for B does not have to be accompanied by a public declaration of my belief (which I do not have) that he is the best candidate. However, by contrast, I can only marry B by falsely declaring that I love her and do not love anyone else. Tactical voting is thus akin to compromise with disagreement whereas tactical marriage is akin to compromise with agreement. The mendacity and duplicity of my marriage proposal appears then to offer a telling illustration of what such a compromise amounts to. Indeed the example – admittedly a far-fetched one – might in and of itself supply sufficient reason to think moral compromise with agreement utterly unjustified.

But imagine now that the marriage is a necessary strategic one that would secure peace between warring groups. Such peace would perhaps see the saving of many lives. No other means realistically exists of securing such peace, and the characterisation of the situation in 'tactical marriage' obtains. My insincere profession of love would then arguably be a supererogatory act on my behalf; indeed some might see it as morally required.

Of course some will see the telling of the lie – 'I love B'; 'I agree with the recommendations of this committee' – as sufficient grounds for a denunciation of the public profession (of love or of agreement). Lies are always and everywhere morally wrong. There can be no question of finding gains or benefits from the lie's telling that would somehow compensate for or outweigh the wrongness. I cannot here satisfactorily address this general claim. My own view is that there is reason not to tell a lie but that lying is not in every circumstance all things considered wrong. However it is instructive to consider the particular claim that the philosopher has a special obligation, as a philosopher, to tell the truth. To evaluate that claim I shall compare the contrasting discussions of two philosophers who have engaged in public policy: Dan Brock and Mary Warnock.

Dan Brock's 'Truth or Consequences' is an article setting out his reflections on being a philosopher on advisory and policy-making bodies.[16] As its disjunctive title suggests he believes there is a fundamental choice to be made between two very different normative

[16] Dan Brock, 'Truth or Consequences: The Role of Philosophers in Policy-Making', *Ethics* **97** (July 1987): 786–791.

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imperatives: that of the academic philosopher is to pursue the truth, 'to follow arguments and evidence where they lead without regard for the social consequences of doing so'.[17] By contrast 'the first concern of those responsible for public policy is, and ought to be, the consequences of their actions for public policy and the persons that those policies affect.'[18]

Brock's choice of mutually exclusive concerns – for the consequences or not – would seem decisively to settle matters against moral compromise with agreement.

Yet matters are not so clear. The academic member of a committee *has*, in reaching her considered view, followed the arguments and evidence where they led. Moreover it would be wrong to think that a consideration of consequences played no role in the journey along this path. Presumably a significant part of the independent, critical and unconstrained evaluation of one policy option rather than another will appeal to the consequences of adopting each. What else might a respect for 'evidence' mean if not a concern correctly to identify and to appraise the significance of relevant consequences?

Brock's worry is not in fact that the individual academic's pursuit of the truth should be unconstrained by a concern for consequences. It is rather than the individual's *arguing* for that truth might have bad consequences. The general thought is that a philosopher in defending the correctness of some position, P, might successfully persuade his non-philosophical audience but do so in such a manner that they do not fully or properly appreciate P, or the reasoning that warrants P. Thus their endorsement of P is not an unqualified good since they may by mistaken inference or by simple misunderstanding endorse views (and thereby feel justified in pursuing courses of action) the philosopher cannot support. Brock's own example turns on the relationship between the permissibility of ending life-sustaining medical support and the moral importance of the distinction between killing and letting die. His worry was that persuading non-philosophers that letting die does not differ in any significant moral way from killing would cause them to change their minds and now view ending life support as wrong. This would be bad, and attempts to correct confusions might cause even more damage in the same vein.

However it is not clear why the policy context is unique, nor is it evident that a concern for consequences is somehow in tension with the truth-seeking imperative. Many a student has left a philosophy lecture with a confused view of what has been argued and why.

[17] Ibid., 786.
[18] Ibid., 787.

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Philosophy texts can be bought and read by non-philosophers who may misconstrue or not fully understand their contents. Some students become policy-makers and some policy-makers read philosophy. Brock's disjunction also obscures the important distinction that his example relies upon, namely that between the pursuit of the truth and the manner in which that truth (and its pursuit) is communicated. Thus it does seem wrong to demand of an academic that she should only pursue the truth with an eye to the good consequences of doing so. Yet it would seem strange to conclude that an academic should have no regard for the consequences of what she said publicly. Choices can be made by any academic researcher about what to publish, where to publish, in what form and with the aim of reaching which audiences. These choices are regulated not by the rule of following arguments and the evidence wherever they lead but by a concern for social consequences, even if these are only restricted to those pertaining to the reputation of the researcher.

Maybe non-philosophers can misunderstand philosophical argumentation and maybe there are dangers in their doing so. However non-philosophers are not the only ones who can fail to grasp the import of what other subject specialists are saying; and the dangers of intellectual misunderstanding are general.

Mary Warnock chaired the Committee, instanced earlier, and charged with examining 'the social, ethical and legal implications of recent and potential developments in the field of human assisted reproduction.'[19] Its recommendations led to the drafting and enactment of the Human Fertilisation and Embryology Act 1990 and to the creation of the regulatory body envisaged in those recommendations, the Human Fertilisation and Embryology Authority. In various published pieces Mary Warnock set out and defended the moral reasoning that informed those recommendations.[20] This might lead one to believe that these recommendations involved no element of compromise, a belief given some support by the fact that the Committee's Report contains three 'Expressions of Dissent'. Nevertheless, in a subsequent autobiographical account of the Committee's deliberations Warnock notes that she became aware of 'an absolutely central consideration in the work of committees such as ours'. This, she says, is 'the difference between what one

[19] Op. cit., note 7, iv.

[20] See, for instance, her 'Moral Thinking and Government Policy: The Warnock Committee on Human Embryology', *The Milbank Memorial Fund Quarterly. Health and Society* **63** (Summer, 1985): 504–522.

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might personally think was sensible, or even morally right, and what is most likely to be acceptable as a matter of public policy.'[21]

The Report was signed off even by those who submitted dissenting opinions. Conflict was avoided, Warnock notes, by not using the 'inflammatory' language of 'right' and 'wrong'. Indeed, she affirms, 'the very best one could hope for was to find something roughly "acceptable"'.[22] The context Warnock identifies as that within which the best is what is 'acceptable' comprises two elements. The first is that on the matters under consideration there are significant moral differences, both within the Committee and society at large. The second is reluctance amongst members of the Committee 'to appear to dictate on matters of morals to the public at large.'[23]

Such a description suggests that the Committee avoided making any moral recommendations and instead simply opted for an endorsement of what was 'roughly acceptable'. This would be compromise not in the sense of an adjustment of one's moral views to accommodate disagreement but in the sense of a retreat from the affirmation of *any* moral view. Were this indeed the case Richard Hare's sharply expressed censure seems merited:

> She was content with a second-best alternative, which was perhaps all she could manage. This was to find some conclusions which the members of the committee, or as large a majority of them as possible, would sign, and not bother too much about finding defensible reasons for them. Since the members were fairly typical in their moral attitudes or prejudices, it might be hoped that conclusions to which they would agree would also be acceptable to the public, and that government policy would duly confirm.[24]

However such censure is, as Richard Norman comments, 'unfair'.[25] Warnock did give reasons for the Committee's recommendations even if they do not satisfy Norman, Hare or Lockwood.

Moreover, elsewhere Warnock's comments suggest that this was all she tried to manage. The recommendations of the Committee are

[21] Mary Warnock, *Nature and Mortality: Recollections of a philosopher in public life* (London: Continuum, 2003), 98.

[22] Ibid., 99.

[23] Op. cit., note 7, 1.

[24] Richard Hare, '*In Vitro* Fertilization and the Warnock Report', in his *Essays on Bioethics* (Oxford: Clarendon Press, 1993), 109.

[25] Richard Norman, 'Applied Ethics: What is Applied to What?' *Utilitas* **20** (July 2000), 133.

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couched in moral language and supported by explicit moral arguments. Her descriptions of how the Committee reasoned and came to its conclusions suggest that it did not limit itself to determining what was 'acceptable'. In respect of surrogacy, for instance, Warnock reports that 'We ourselves believed that it was wrong', or more generally, 'We had simply to recommend to Ministers what most of us thought right, after long and careful thought.'[26] This would suggest that the concession made to what is acceptable is not a relinquishment of the moral point of view. Rather it is a concern to recommend what is *both* morally defensible and likely to meet with broad social and political support. Put another way, any recommendation must be that which one has most moral reason to support within the set of feasible recommendations. This view is consistent with her entirely defensible claim that,

> It is no good making recommendations for legislation which could never in any conceivable circumstances be carried through Parliament, nor recommendations which, if eventually they became law, would be unenforceable. …They [our recommendations] had also, as far as possible, to be acceptable to society as a whole, and a society increasingly conscious of the moral dilemmas involved.[27]

This is a form of moral compromise inasmuch as one is publicly endorsing a moral view (as to which policy should be adopted) that one does not in fact endorse and doing so as an accommodation to facts of disagreement. In this instance the disagreement is not between members of the Committee but between it and society and its legislative representatives. The public would not accept what in fact might be shown to be the morally best policy. Given *that* disagreement the Committee has reason morally to compromise.

The worries about this form of compromise are twofold and interrelated. First, there is the danger of compromise being an accommodation to unreasonable moral views ('prejudices'). Moral compromise in the sense discussed at the outset is an accommodation to reasonable moral views. Second, accommodation to disagreement may in fact be a resignation to what need not be irremediable. Thus morally well-argued recommendations might nevertheless win over the public and policy-makers. Richard Hare thinks the Wolfenden Report on homosexuality a good example of a set of recommendations that

[26] Op. cit., note 20, 510 and 519.
[27] Ibid., 505.

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were both philosophically respectable and ultimately *successful* in securing reform.[28]

Warnock does thus arguably allow for the permissibility of moral compromise with agreement. For his part Brock's argument does not show that a philosopher who had fearlessly and frankly pursued the truth within the private and protected context of an advisory or policy committee would not have reason, once the deliberations were completed, publicly to endorse a concluding recommendation she had not seen good reason to defend *in camera*. Brock's worries touch on the manner in which any provisional recommendations are accepted by others on the committee. So let us grant that these are not ones infected by the confusions and misunderstandings Brock outlines. The disagreement between the philosopher and the rest is a 'reasonable' one and also such that neither side sees good reason to change their mind. Should the philosopher, recognising the enormous benefits of a unanimous recommendation being made public, consider silencing her opposition?

Those who insist upon the duty of the academic to speak the truth always and everywhere will not see any case for doing so. A lie is a lie; a half-truth is not the truth. The telling of either is never permitted. I grant that those who think this will find it impossibly hard to consider publicly moderating or discounting views they believe themselves to have good reasons to endorse.

However for those who do see that there might be reasons to do this I offer some brief concluding suggestions as to the manner in which one might reach a decision as to when and why. I do not see the matter as anything other than morally complex and context-sensitive. Thus, I shall not defend a simple answer to the question of whether moral compromise with agreement is permitted. Instead I conclude with a categorisation of the relevant kinds of consideration that should enter into our estimation of whether and, if so, when such compromise is allowed. The categories are not neatly divisive of the considerations; there are obvious interrelations between all of them.

First, there is the distance between the compromise view and one's own. Some proposed non-moral compromise solutions to disagreement may be simply impossible to accept; what is suggested requires too big a concession on the part of one party. The deal cannot be swallowed. This may also be the case in proposed moral compromises. It helps then if the disagreement that prompts the need for compromise is a reasonable one. Moreover, the philosopher can recognise that a failure to secure consensus on important ethical, meta-ethical and

[28] Op. cit., note 24, 111–2.

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particular practical normative questions is an enduring feature of her discipline's practice. Indeed such rational disagreement may prompt the philosopher to acknowledge a deep-lying pluralism within her subject.[29]

Second, there is the question of the overall benefits of unanimity secured by the moral compromise with agreement. How much difference will such public concord make? How important and beneficial, for instance, is the policy change that might be adopted as a result of the unanimous recommendation?

Third, it needs to be asked whether the compromise is *sustainable* since its benefits depend on the public agreement being supported for at least some period of time. Compromises seem by their nature to be unstable and temporary, prone to collapse in the wake of any relevant change in the circumstances of those who are party to them. Rawls famously declared that an overlapping consensus was to be contrasted with political agreement for the 'wrong reasons'. In *Political Liberalism* he distinguishes an overlapping consensus from a *modus vivendi* on two grounds: first, that 'the object of consensus … is itself a moral conception', and, second, 'it is affirmed on moral grounds'. These grounds are he thinks sufficient to mark a 'basic contrast between an overlapping consensus and a modus vivendi, the stability of which does depend on happenstance and a balance of relative forces.'[30] The object of a moral compromise with agreement is a moral view and there are moral grounds for its public affirmation, namely that the consensus managed is beneficial. Nevertheless the publicly affirmed grounds for the consensus view are not the grounds for publicly affirming the consensus. To that extent such a consensus, if not as unstable as *modus vivendi* that accommodates competing interests, is nevertheless evidently at risk of eventual collapse.

Fourth, there is the issue of the personal costs for one who has chosen to 'go along' with the views of others with whom she disagrees privately. Such costs are chiefly those of binding oneself to the public endorsement of a view one does not subscribe to, such as the inability to publicise or publish anything that could reasonably be seen as inconsistent with or subversive of the that view. The cost is not a loss of autonomy, that is of believing something merely or principally because others do. Nor is it strictly a loss of moral integrity which

[29] Nicholas Rescher, 'Philosophical Disagreement: An Essay towards Orientational Pluralism in Metaphilosophy,' *Review of Metaphysics* **32**(2) (December 1978): 217–251.

[30] Op. cit., note 4, 147–8.

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Arthur Kuflik regards as a side constraint upon compromise.[31] A party to moral compromise continues to believe a view he nevertheless has reason not publicly to affirm.

Fifth, there are the costs of the compromise itself. These include the dangers that the compromise view may bowdlerise the moral truth, and that it will appear to lend support for other positions that the maker of moral compromise has much less reason to see as congenial. Such dangers are arguably less pronounced if the compromise is not a fudge and is the outcome of reasonable disagreement.

One critical cost of compromise worth noting that is both general and particular to its maker is as follows. The weight and value of any intellectual endorsement derives in significant part from the fact that it is independent, critical and sincere. It is thus self-defeating and undermining of its value if the endorsement is made insincerely, or, more accurately, if it is known to be made insincerely or likely to be made insincerely in order to secure certain benefits.

None of the foregoing amounts to a case in favour of moral compromise with agreement; nor does it amount to a conclusive demonstration of a case against such compromise. Rather I have attempted to identify a kind of compromise that is not properly recognised in the literature on compromise, and to explain exactly what it involves. To the extent that I have done this adequately I have at least shown that there may be reason to think that philosophers who are in the position to do so are permitted, and perhaps ought to make such compromises in some circumstances.

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[31] Op. cit., note 13, 38–65.

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