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MISTAKES TO AVOID IN ATTACKING THE MORAL/CONVENTIONAL DISTINCTION

ABSTRACT: In an experimental critique of the moral/conventional (M/C) distinction, Kelly et al. (2007) present new experimental data about responses to transgressions involving harm, where the novelty is that transgressors are grown-ups, rather than children. Their data do not support the moral/conventional distinction. The contrast between grown-up and schoolyard transgressions does not seem, however, to explain their results: they also use two schoolyard transgressions with similar negative results for the M/C distinction.

I here attempt to explain away their results by calling attention to two mistakes in their experimental design. One refers to the use of questionnaire-items of the type that Turiel and collaborators have called mixed-domain situations, which extend over both a moral and a conventional domain. Participants respond to these cases differently than to prototypical moral situations, because some allow the authority rule to override the moral rule. The second mistake emerges in the grown-up transgressions labeled as Whipping/temporal, Whipping/Authority, Spanking/Authority, Prisoner abuse/Authority. These are not the typical transgressions unambiguously “involving a *victim* who has been harmed, whose rights have been violated, or who has been subject to an injustice”. The victims are also transgressors and harm is inflicted on them as punishment. Plausibly, rules about corporal punishment depend on authority in a way that rules about harming the innocent do not.

1. INTRODUCTION: DIVERGENT RESULTS AND THEIR EXPLANATION

Turiel and collaborators claim that people spontaneously make a systematic distinction between moral and conventional norms, suggesting that moral and conventional rules are distinct natural kinds in the social/psychological domain. They devised an experimental paradigm that is sometimes called the moral/conventional task. In this task participants have to judge transgressions of moral and conventional rules. A questionnaire elicits from them the characteristics of each type of transgression. The data show that transgressions involving a victim who has been harmed, whose rights have been violated, or who has been subject to an injustice are systematically judged to be seriously wrong in any time and place, independently of the will or command of any authority. Authorities cannot make the actions right in the moral sense. These characteristics are not shared by transgressions of conventional rules.

Kelly et al. (2007) obtained experimental data showing that some transgressions involving harm and a victim do not evoke the typical response pattern of the moral/conventional task: they are judged to be less serious, situated in time and place and dependent on authority. They observe also that the transgressions found to evoke systematically the typical moral signature response pattern are all transgressions that happen among children in the schoolyard. In contrast, the transgressions in their study are performed by ‘grown ups’. But they do not claim that this difference explains the divergent results obtained in their experiments. In fact, they raise the question whether the explanation could be due to the contrast schoolyard/grown-up, but leave the answer open at the end of their paper:

“We believe that our findings raise two important questions that must be addressed in future research. First, why did previous research on schoolyard harm transgressions appear to support (C-2a)?¹ Is there something special about these simple harm transgressions that is not shared by the more ‘grown-up’ transgressions that we also used in our study?” (Kelly et al. 2007, p. 129)

In this paper I address this question. I note at the outset that the problem may in fact be worse for the M/C distinction than they sug-

gest. The results of Kelly et al. (2007) are negative not only in relation to grown-up transgressions. Their battery of stories included two schoolyard transgressions; and the results there are as bad for the M/C distinction as those from the grown-up transgressions.

Two reasons, I shall argue, could provide the sought for explanation. Though they do not impinge on all items of their questionnaire equally, together they cover 7 of the 9 items. The first reason concerns their use of mixed-domain situations (Turiel 1998, p. 909–910; Nucci 2001, p. 95–97) in 6 items of their questionnaire. I shall argue that this use is mistaken, because mixed-domain situations will produce divergent responses in the M/C task. This is due to their mixed character, not to the dependence on authority of rules against harm. Mixed-domain situations are such that:

- 1) Two normative domains range over the same action, one related to a moral rule and one related to authority jurisdiction, and
- 2) The normative domains are in conflict, i.e., they pull agents or respondents in contradictory directions.

In situations of this type, it can happen that agents or respondents perceive only one of the two norms as salient, and sometimes it is the authority rule; or they could perceive the conflicting requirements of both rules and resolve the conflict each in their own way, sometimes giving priority to the authority rule. This explains why responses diverge from the usual pattern in the M/C task in such cases, without showing that moral rules are authority dependent. It shows that in mixed-domain situations, for some agents or respondents, the authority rule overrides the moral rule. Explicit avoidance of mixed-domain situations in the questionnaire would probably produce responses that match the expectations of the moral/conventional task.

The second reason affects 4 items in their questionnaire, all of them examples of grown-up transgression. They differ from the schoolyard type, but not because there is something special about the latter. It is rather these particular grown-up transgressions which are special. The transgressions labeled as Whipping/temporal, Whipping/Authority, Spanking/ Authority, Prisoner abuse/Authority are not the typical transgressions unambiguously “involving a *victim* who has been harmed, whose rights have been violated, or who has been sub-

ject to an injustice”. In contrast to the original Hitting and the Hair pulling schoolyard stories, the victims of the grown-up transgressions are also themselves transgressors. The harm inflicted on them has the quality of punishment. It is not unreasonable to assume that, for some people, rules about corporal punishment depend on authority in a way that rules about harming the innocent do not. In the following I shall develop these two reasons in more detail.

2. MIXED-DOMAIN SITUATIONS

In order to explain the results in Kelly et al. (2007) and their divergence from the traditional responses to the M/C task, it is important to realize that the greatest challenge for the M/C distinction comes from cases where the harmed person is only a victim and not herself a transgressor. These cases are represented in Kelly et al. by two typical schoolyard stories about hitting and hair-pulling, where the targets of harm are victims only. In their design they present these classical stories together with a corresponding reframed version, where the original story follows an introduction saying: Suppose the teacher had said: “In this school there is no rule against pulling hair (hitting).” They label these items the Hair pulling/Authority and the Hitting/Authority cases. This reframing is designed to establish whether rules involving harm to innocent persons are considered by participants to be independent of or dependent on authority. If the moral/conventional distinction is to be confirmed, there should be little variation in the responses to the original and reframed versions. However, 53% of participants say it is Ok to hit (14% say it is Ok to pull hair) at school if the teacher says it is permitted (reframed version), whereas only 14% say it is Ok to hit (4% say it is Ok to pull hair) when the reference to the authority’s command is omitted (original version). This is certainly a difference that calls for an explanation; and it concerns the classical schoolyard cases, not the grown-up ones. This result is the toughest challenge of their experiment to the M/C distinction. Kelly et al. see it as evidence against it. But the result is explained away by calling attention to what Turiel and collaborators have called mixed-domain situations.

An example of mixed domains is where a father tells his son to steal flowers from the neighbor’s garden. Another example is provided

by the famous Milgram experiments on obedience to authority (Milgram 1974), where a scientist, presumably investigating the impact of punishment on learning, commands participants to give electric shocks (faked) to an innocent person each time she errs (a confederate that simulates pain), contravening a moral rule against harming the innocent. A similar example is given when members of the military commit crimes at the command of their superiors. Typical for these mixed-domain situations is the contradiction between a moral rule that prohibits the action and a rule prescribing obedience to an authority that commands the action. For example, a command to steal or give electric shocks issued by parental or scientific authority contradicts a moral rule against stealing or harming innocent people.

In the Hitting/Authority and the Hair pull/Authority items the mixed situation is created when a moral transgression is reframed in a story where an authority explicitly permits the transgression locally. This is also the case in 4 other items in their questionnaire, labeled the Spanking/ Authority, Prisoner abuse/ Authority, Whipping/ Authority and Military training/ Authority stories. Participants are thus confronted with a situation that elicits both a moral rule against the action and the rule of an authority that permits the action. Their responses will not be the same as when the situation only elicits a moral rule against the action. The point about mixed-domain situations is that participants feel the pull of two contradictory rules. They sometimes obey the authority, and sometimes not. In the case of the Milgram experiments, participants have sometimes obeyed in high percentages and have sometimes rejected almost unanimously the scientist's command, depending on the experimental conditions (Milgram 1974; Turiel & Smetana 1984). Interestingly, the percentages of approval obtained by Kelly et al. in the pulling hair and hitting at school stories are very different. When the authority permits the action, the pulling hair and hitting stories elicited 53% and 14% of approval respectively. In itself, this large difference for two very similar actions suggests the effect of an uncontrolled factor influencing participants' perception of the salient rule, or participants' resolution of the conflict between rules. Presumably because of differences in personal character or cultural background, participants resolve the conflict differently. No univocal prediction can be attempted without controlling for those

factors.

In the design by Kelly et al. (2007) participants were not asked whether the school authorities could legitimately change the moral rules about hitting and hair pulling. Rather, it was assumed that they had already issued rules permitting them. Moreover, the text suggests that they issue rules with an explicit local scope ("at this school it is allowed..."). Participants would normally understand the rule as locally valid at the school in question. The local character of the rule induces participants to understand the situation as a mixed-domain situation, where two different rules and two different concepts of wrong (or of Ok, i.e., not wrong) apply: one is relative to authority and one is independent of authority. Participants responding that it is Ok to hit when the school authority permits it could simply mean that it does not violate the authority's rule. Understood in this way, the response obviously does not imply that moral rules are judged as authority dependent. A more explicit design would ask two questions to disambiguate: on one hand, whether it would be wrong in the sense of violating the authority's rule, and on the other, whether it would violate a moral rule; or whether it would be wrong in any other sense. It could be argued that this procedure presupposes a difference between two concepts of wrongness, one dependent on and the other independent of authority. But I take it that Kelly et al. (2007) do not question the existence of these two senses of wrongness (a motivationally intrinsic and a motivationally extrinsic sense): what is at stake is whether rules involving harm and rights invariably elicit the concept of wrongness that is authority independent. There is nothing methodologically wrong in a procedure that makes these two senses explicit in the questionnaire.

The design used in Kelly et al. (2007) contrasts with one used by Nucci (1985) and Nucci & Turiel (1993), described also in Nucci (2001). The latter authors interviewed religious children and youths regarding the difference between rules issued by religious authorities and moral rules. The question posed to participants was about moral rules as such and whether it would be wrong or not for religious authorities to change them, not just locally, but for every context. This way of asking does not posit a hypothetical situation where two rules apply, i.e., a mixed-domain situation. Rather, a participant has to think explicitly about whether an authority has legitimate jurisdiction over

a moral rule. This was contrasted with the same question regarding matters of religious behavior. More than 90% of the catholic youths said that it would be wrong for religious authorities to remove rules on such transgressions as stealing or harming others, but only 40% said that it would be wrong for the Pope to remove rules regarding religious or even sexual behavior. Between 80% and 90% of Christian fundamentalists and orthodox Jews said that it would be wrong for religious authorities to change moral rules. Their views about alterability of conventional rules contrast with the views of the Catholics. A high percentage of Orthodox Jews judged them unalterable by authorities, while on average 60% of Christian fundamentalists judged conventional rules in the same way. But this attitude to conventional rules follows from the fact that Orthodox Jews and Christian fundamentalists, in contrast to Catholics, take the word of God as immediately revealed in the Bible, and not any religious authority, as the ultimate norm of religious behavior. When asked whether God, rather than religious authorities, could change moral and conventional rules, around 90% of orthodox Jews and Christian fundamentalists said that it would be wrong even for God to change moral rules, though it would not be wrong for God to change rules about matters of religious behavior. This result is in line with the M/C distinction.

3. HARMING AS PUNISHMENT

In the typical experiments that confirm the moral/conventional distinction, the transgressions studied were stealing, hitting, calumny and damaging another's property. These are the types of moral transgression used by Nucci (2001) in the experiment described above about the views of religious children and youths concerning whether moral rules could be altered at will by religious authorities, or even by God. Targets of these transgressions are people depicted as innocent of any previous harm, so they are genuine victims. In contrast, the battery of stories used in Kelly et al. (2007) contains a group of 4 transgressions where harm inflicted is in fact punishment of a transgressor. These 4 stories are the ones labeled Whipping/Temporal, Whipping/Authority, Spanking/ Authority and Prisoner Abuse/Authority. Harming as punishment is here directed at people guilty either of a potential harm (as

in whipping sailors when drunk on duty) or of a real harm. For example, in the Spanking/Authority story, a child is spanked for repeatedly hitting other children.

There is an obvious difference between harming the innocent and harming those that have harmed others. In the latter case, harm is a reaction to previous aggression and is inflicted as punishment. Most would agree that punishment is appropriate for moral transgressions, though few would agree that corporal punishment is appropriate. However, many people endorse corporal punishment as legitimate for moral transgressions. Though these people may believe that corporal punishment is morally justified, it is likely that they are aware of widespread views to the contrary. Therefore, they feel more comfortable endorsing corporal punishment if an authority sanctions it as legitimate for a given transgression. This conjecture would need experimental confirmation, but it is a reasonable hypothesis that could explain, in the experiment by Kelly et al. (2007), the higher percentage of participants who endorse corporal punishment when allowed by an authority. This result does not imply that rules against harming the innocent are alterable by authorities, but only that the legitimacy of corporal punishment is seen by some as subject to the decisions of authorities in their proper jurisdictions.

We argued above that in the mixed-domain situations participants who respond to the question: "Is it Ok to X?" understand the concept of wrong/not wrong in different senses. Some may understand it in the sense of morality and some in the sense of an authority-dependent rule. But when the story is about corporal punishment, this difference matters less, because its *moral* appropriateness may be viewed as dependent on the decision of authorities according to the circumstances. That is, if some people view corporal punishment as *morally* appropriate when an authority permits it in her own jurisdiction, ambiguity in the concept of wrongness plays no role. This fact alone can explain the higher percentage of participants who endorse harm as punishment when permitted by authorities. A combination of this effect with an effect produced by an ambiguity in the concept of wrongness is also possible. An experimental design could establish whether both effects are present and their relative contributions.

4. CONCLUSION

I have elaborated on two reasons that can explain, in seven of the nine cases presented in the design by Kelly et al. (2007), why a higher percentage of people endorse harming others as appropriate when sanctioned by an authority. One is that people feel the pull of a rule to obey authorities locally even when obedience to authority contravenes a moral rule. The other is that some people believe that authorities have jurisdiction to determine whether corporal punishment is morally appropriate or not. Acting independently, these two reasons cover 7 of the 9 stories used in Kelly et al. Both reasons can be acting together in 3 of the 4 cases that deal with corporal punishment (excluding Whipping/Temporal). Both reasons preserve the moral/conventional distinction as formulated by Turiel (1983). I have not addressed people's attitudes towards cannibalism, nor towards slavery. In the first case victims are not involved; the story served a different purpose in their paper. People's attitudes towards slavery are potential evidence against the distinction. They pose a difficult challenge in a complex issue that should better be left for another occasion.

Notes

¹In their reconstructive analysis C-2a is the claim: "Transgressions involving harm, justice, or rights evoke the signature moral pattern".

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