

Hard Environmental Choices: Comparability, Justification, and the Argument from Moral Identity

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Abstract: In decision-making based on multiple criteria, situations may arise where agents find their options to be neither better than, worse than, or equal to each other with respect to the relevant criteria. How, if at all, can a justified choice be made between such options? Are the options incomparable? Exploring a hypothetical case illustrating how this situation can arise in the environmental context – that of an ethics committee which is to make a choice between recommending or not that a deep-sea mining project is allowed to proceed – this paper argues that the case is best understood as involving options that are comparable in the sense of being ‘on a par’. On the background of a discussion of Ruth Chang’s ‘self-governance’ theory of choice in cases of parity, it is suggested that in the environmental context, the idea of choices expressing a ‘moral identity’ – reflected in statements about what kind of people or society we ideally think we should be – may lead us in the direction of a plausible solution to these hard cases.

Key words: Incomparability; parity; choice; moral identity

Introduction

In environmental decision-making, decision procedures that rely on a single scale or criterion of measurement, such as cost-benefit analysis, are attractive since they offer the prospect of a

clear ranking of options – even a cardinal one if based on monetary values – which can provide a firm foundation for rational decisions.¹ If building a dam has the value of one million dollars, while protecting the ecosystem threatened by the dam has only half the dollar value – and the sole criterion is monetary value – then clearly we should build the dam!

However, the assumption that diverse values can meaningfully be measured on a single scale or criterion is problematic given what can be called the *incommensurability principle*, which states (roughly) that there is an irreducible plurality of values such that those values cannot be ‘commensurated’ or reduced to a single, common measure. For instance, the aesthetic value of a river landscape can be held to be incommensurable with economic value, in the sense that you cannot measure the former in terms of the latter.

The incommensurability principle is philosophically contested (e.g. Regan 1997). Taking a stand on this issue would require a thorough examination of value pluralism, which is beyond the scope of the current paper.² The starting point of my discussion is that at least from the practical perspective of providing decision aid to actors in concrete cases, adopting the incommensurability principle in some form seems reasonable and perhaps even necessary. The reason is that whether decision aid is provided for a single actor or takes place in a multi-actor setting, it is rare that actors have in mind a single, well-defined criterion. More often, it will be necessary in a decision process to take into consideration various points of view dealing with, for instance, environmental aspects, financial aspects, human resources, and security (Köksalan, Wallenius, and Zionts 2013).

The current paper discusses a problem that may arise in decision-making based on multiple considerations or criteria.³ In a well-known example, Joseph Raz (1986) asks us to

¹ Cost-benefit analysis is widely applied in environmental decision-making (see Sunstein 2005a, Steel 2015).

² For classic expositions of incommensurability and its connection to value pluralism, see Williams (1981), Nagel (1979), Berlin (1990, 2002), Stocker (1990).

³ There exist a host of more technical (formal and quantitative) literature on what is called Multiple Criteria Decision Making (or Multiple Criteria Decision Analysis). See, for instance, Greco, Figueira, and Ehrgott (2005). The problems discussed in the current paper can presumably arise in most forms of decision-making based on multiple criteria.

imagine a person facing a choice between a career as a lawyer and one as a clarinettist.

Suppose that the relevant choice criteria for this person are economic security and musical interest. In this case, the person may find no career better than the other with respect to *both* economic security and musical interest – while not being indifferent between the two careers either. Such cases can arise in the ethical domain as well. In this paper I examine how, in the environmental context, choices can be made between options that are considered neither better than, worse than, or equal to each other with respect to the relevant criteria.

I discuss a hypothetical (but realistic) case illustrating how this choice situation can arise in the environmental context – namely, that of an ethics committee struggling to decide whether to recommend that a certain mining project be allowed to proceed or not, since they do not find any option clearly better or worse than the other, but do not find them equally good either. It is natural to presume that a justified choice between options requires that they can be compared in some way. But what is comparability, and why is it important for justified choice?

I begin by considering the so-called ‘trichotomy thesis’, which says that there are only three comparative relations in the context of evaluation: ‘better than’, ‘worse than’, and ‘equal to’. The thesis implies that a case like that of the ethics committee, where none of these relations hold between options, is a case of *incomparability*. If no comparison can be made between options based on the three standard relations, can agents still make a rationally justified choice between the options? I discuss four proposals for how this can be done – ‘maximilizing’, ‘satisficing’, ‘absolutizing’ and ‘secondary considerations’ – and argue that they are all problematic in the environmental context. I then discuss the view that the trichotomy thesis is false, since options that are not comparable in terms of the three standard relations can nevertheless be compared in terms of ‘parity’ (Chang 2002) or ‘rough equality’ (Parfit 1984, Griffin 1986, 1997). I argue that the ethics committee case is best understood as involving comparability in the sense of parity or rough equality.

Against this background, I go on to assess a proposal by Ruth Chang (2013, 2009b, 2009a) for how choices can be made in cases of parity. Arguing that Chang's 'self-governance' approach is problematic in the ethical context because of its reliance on voluntarism, I suggest a related approach based on the Aristotelean idea of *moral identity*, which concerns the kind of society we think we should be in light of some conception of the good life. I argue that while the self-governance approach involves a formalism and arbitrariness that is problematic for the type of environmental choices discussed in the paper, considering choices in light of how they affect and are affected by moral identities may provide a substantive, non-arbitrary basis for justification in cases such as that of the ethics committee.

The ethics committee

Suppose that an ethical advisory board or ethics committee is appointed by an official body of policy-makers to advise it on whether to allow a mining company to proceed with a copper mining project on the ocean floor.⁴ The mandate of the committee is to clarify ethical issues and, if possible, to make clear recommendations to the decision-makers as to whether the project should proceed or not. The proposed mining site is located in a biologically rich and ecologically complex environment.

Suppose further that the ethics committee is in possession of substantial knowledge about the economic costs and benefits of the project, as well as the expected environmental impacts. Careful economic analyses have been carried out which conclude that the benefits of the project for society, notably in the form of minerals needed to make the 'green shift' to

⁴ The example is based on the real case of so-called deep sea mining, which involves retrieving minerals such as copper, gold, silver and zinc from the ocean floor at great depths. Several companies and states are involved in exploration. At least 28 contracts have been given by the International Seabed Authority (ISA): <https://www.isa.org/jm/deep-seabed-minerals-contractors> (accessed 01.03.2018). For a pioneer project within exclusive economic zones, see: <http://www.nautilusminerals.com/irm/content/overview.aspx?RID=252&RedirectCount=1> (accessed 24.04.2018).

renewable energy sources, significantly exceed the economic costs. On the other hand, the expected damage to the environment is significant. The hydrothermal vent environment, where the mining is to take place, may be irreparably damaged, individual benthic organisms will be harmed and/or killed in the mining process, and significant species or biodiversity loss may be unavoidable.⁵

Not wanting to assume commensurability, the committee employs a multiple criteria approach to the problem. To simplify, say that the committee considers the ethical legitimacy of the project on the basis of two ethical dimensions. On one dimension, environmental aspects are considered, including animal welfare and a concept of the inherent (or non-anthropocentric) value of nature.⁶ On the other, human welfare is considered on the basis of economic and other anthropocentric values. No lexical priority is assumed to exist between the dimensions, and no dimension is taken to be reducible to the other.

Considering animal welfare and the inherent value of nature, the committee thinks that damage to the environment should be given most weight. This favours the no-mining option (for instance by way of a precautionary approach). However, concerns of human welfare, notably represented by the cost-benefit analysis, favour the mining option. Taking both dimensions into consideration – i.e. ‘all things considered’ – the committee finds no option to be clearly preferable to the other.⁷ Still, they are not indifferent between the options: it is not the case that they do not care which alternative is chosen, or find the alternatives exactly equally good (or bad) with respect to their criteria.

⁵ On environmental risks of deep sea mining, see e.g. ECORYS (2014), Van Dover et al. (2017). On the state of scientific knowledge, see ECORYS (2014).

⁶ The concept of the ‘inherent value’ of nature is meant to capture the view or intuition many people have that (at least some things in) nature has moral standing independent of human preferences, needs, etc. Classic philosophical essays on this topic are collected in Light and Rolston (2002).

⁷ In philosophical discussions, ‘preference’ is often treated as synonymous with ‘want’ or ‘desire’. This is not how the concept is used in this paper. In accordance with standard terminology in decision and choice theory, I take ‘preference’ to refer to a ranking of options which reflects a value relation between them, such as ‘better than’ or ‘worse than’ (Hansson and Grüne-Yanoff 2012). I make no metaethical assumptions about the ultimate ‘source’ of such ranking here. That said, I do find it natural to think that the form of ranking relevant in the ethics committee case reflects a *value judgement*, which expresses a belief on the part of actors about what is good, best, etc. – as opposed to mere desires or wants of the committee.

If the committee wants to avoid suspending judgement on the matter, what can they do? Can they make a rationally justified choice between the alternatives? A natural place to start in answering this question is to ask whether the committee can in any way compare the options in order to evaluate their relative merits. What kind of comparability, if any, exists between options in cases where agents do not consider any option better or worse than any other, while they are not considered equally good either? If there is no comparability between the options, can they still make a justified choice? Different theories have been developed in the philosophical literature to answer these questions. I will discuss the most important theories in the following sections, using the ethics committee as a ‘test case’ to see how they hold up in the environmental context.

Incomparability and weak comparability

Some authors argue that choices where options are considered neither better than, worse than, or equal to each other, are (at least in practice) cases of *incomparability* (Raz 1986, Anderson 1997). We can call this position ‘incomparabilist’. Incomparabilists assume what has been called the ‘trichotomy thesis’ (Chang 2014), which holds that the logical space of evaluative comparisons is limited to three comparative relations: ‘better than’, ‘worse than’, and ‘equal to’. If none of these relations hold between options, it is claimed, the options are incomparable, since in such cases there are no comparative terms available to assess the relative merits of the options.

It can be held that rational choice in cases where none of the standard comparative relations hold – I will refer to them as ‘hard choices’ (Chang 2012) from here on – can be based on ‘weak comparability’, which does not require complete overall preferences over options (Martinez-Alier, Munda, and O’Neill 1998).⁸ The gist of the idea is that there can be

⁸ In decision theory, an agent’s preferences are said to be ‘complete’ if the agent either has a strict preference for some item in the choice, or is indifferent between them. Otherwise, they are ‘incomplete’.

comparability on some dimensions or criteria without there being a more comprehensive or ‘strong’ comparability (such as commensurability) between the alternatives (O’Neill 1993).⁹ For instance, even if agents’ overall preferences between apples and pears are incomplete, they can still prefer apples to pears on one criterion, say price, while pears are preferred to apples with regard to taste. However, it is not clear what implications weak comparability has for choice in cases such as that of the ethics committee, where a comprehensive or all-things-considered judgement about what to do is sought. Weak comparability does not, it seems, exclude incomparability on this ‘higher’ level. What does this imply for the possibility of justified choice?

If agents cannot compare their options on the basis of the three standard comparative relations, this bars the form of justification most prominent in economics and decision theory – namely ‘optimizing’ – since optimizing requires that we choose an alternative that is *at least as good as* the others. Does this mean that no rationally justified choice can be made between them? It may be that even if we cannot make a meaningful evaluative comparison of our options, we may still be able to justify our choice of one option over another. At first glance, at least three alternative forms of justification seem available in cases of incomparability (understood in terms of the trichotomy thesis). Let us consider their plausibility in the environmental context.

Three strategies of justification

The strategies can be called ‘absolutizing’, ‘maximilizing’ and ‘satisficing’ (Chang 2014). Let us consider them in turn. In the case of absolutizing, justification proceeds on the grounds of some absolute principle or rule. No matter how *x* compares to *y*, if choosing *x* is required or

⁹ It is not entirely clear whether ‘weak comparability’ is suggested by O’Neill as a normative thesis about justification, or merely a descriptive thesis about a certain type of choice situation. From the discussion in (O’Neill 1993), both interpretations seem possible. I interpret it here as a normative thesis, or at least a thesis supposed to have normative implications.

permitted by the principle or rule in question, we are *ipso facto* justified in choosing x . For instance, the act of fulfilling a promise can be justified ‘absolutely’ on the grounds of a principle stating that we should always fulfil our promises.

Even though absolutizing might be a plausible form of justification in some cases, it seems problematic as a strategy for environmental decisions. Absolutizing economic growth, for instance, would mean that we could do whatever we wanted to the environment as long as economic growth was secured. Absolutizing species protection would imply that we could not extinguish harmful bacteria such as those leading to smallpox. It is unlikely that decisions such as these could be justified without any reference to the merits or demerits of alternative options. Rather than being viewed as absolute considerations, economic benefits and environmental damage are considerations that must be weighed against each other when in conflict.

The notion of ‘maximilizing’ (Sen 2017, cf. Raz 1997) provides an alternative strategy that is arguably open to both incomparabilists and comparativists (the latter being those who believe that comparability is required for justified choice) (Hsieh 2007). In contrast to optimizing, which says that to choose x over y is justified if x is at least as good y , maximilizing requires only that we choose an alternative that is *not worse than* any other alternative. In choosing between items that are not better than, worse than or equal to each other, we are justified in choosing any alternative, since none is worse than the others.

Even if we overlook the theoretical complications that have been pointed out with regard to maximilizing (Chang 2014), the maximilizing solution is problematic on account of the phenomenology of the type of choices we discuss here. Consider again the example of the ethics committee. The question posed to them is ‘should we allow the mining project to continue or protect the environment by not allowing mining?’ Suppose their answer is: ‘We can choose either alternative, because neither is worse than the other’. This answer does not seem satisfactory, and I believe this can be explained by the fact that in the type of case we

are discussing, the ethical stakes are very high: If the choice is between preserving a unique and valuable ecosystem and gaining some (sufficiently substantial) material benefit to society by destroying it, we presumably need to know more in order to be confident of our decision than that neither option is worse than the other.

The same holds for so-called ‘satisficing’, i.e. for justifying a choice by the fact that the option one chooses is ‘good enough’. To the extent that it can work as a coherent form of justification at all,¹⁰ being ‘good enough’ may not provide strong enough justification in the environmental context, where choices involves high ethical stakes. In Chang’s terminology, the *justificatory force* is lacking that is necessary to determine the choice (Chang 2014).

In sum, even though absolutizing, maximilizing and satisficing may in principle provide rational justification for choice in cases where none of the standard comparative relations hold between items, they are all problematic for hard choices in the environmental context. While absolutizing can be said to have a justificatory force that is so strong that it becomes implausible in concrete cases, the problem with the remaining two strategies, maximilizing and satisficing, is that they cannot provide *enough* justificatory force in the type of cases we discuss.

Secondary considerations

Hsieh (2007) proposes the following solution to the problem of underdetermination of choice due to lack of justificatory force: If the fact that x is not worse than y and vice versa with respect to choice value or covering consideration V does not provide us with the justificatory force necessary to determine choice, a ‘secondary consideration’ – not itself part of V – might be introduced that may provide such force.

For instance, when a male applicant for a job is neither better than, worse than nor equal to the female applicant with respect to relevant qualifications, then ‘gender’ might be

¹⁰ Chang (2014) argues that it cannot.

introduced as a ‘tiebreaker’. In this situation, gender is not part of the choice value ‘relevantly qualified’; it is irrelevant to qualification and does not make one candidate better than the other. At the same time, if neither candidate is worse or better than the other, then considerations of gender can justify choosing one over the other.

Could the ethics committee reason in a similar way? What secondary consideration could the committee appeal to that would not itself be part of the choice value but that would still be important to the choice? The secondary consideration could be some kind of non-moral or pragmatic value. Presumably, it must be a significant value, not something like ‘pleasantness of the breakfast menu for mining employees’. Could we find such a value in the case at hand?

It may be that the ethics committee could appeal to pragmatic considerations such as whether the time would be right to allow the mining project, with respect to public opinion. If the decision they recommended would be sufficiently unpopular, the decision could threaten the *ordre public*. It seems unlikely, however, that a decision regarding the case at hand could threaten the *ordre public*. In fact, I suspect that in most cases, a tiebreaker performing a similarly significant role to that of gender in Hsieh’s example will be hard to find. But the solution should not be dismissed out of hand, and can be kept in mind as we go on to consider some further suggestions.

Parity and rough equality

Since the incomparabilist strategies considered above all seem to fail or to be of limited use, let us now look at some alternative views. As will be recalled, the incomparabilist view relies on the trichotomy thesis, which says that there are only three possible comparative relations. That thesis has been contested. Notably, Ruth Chang (1997, 2002, 2012, 2014) argues that there is at least one further comparative relation, which she calls ‘parity’. Parfit (1984) and Griffin (1986) argue that even though, strictly speaking, the logic of comparisons is restricted

by the three standard relations, items that are neither better than, worse than or equal to each other can be ‘roughly equal’ and in that sense comparable.¹¹

The argument behind these claims is that in many cases where none of the standard comparative relations hold between items, a closer look will reveal that they are nevertheless comparable in the sense that we can make a positive evaluative judgement about their relative merits – which intuitively is what evaluative comparisons are all about.¹² To find out if alternatives are comparable in this sense, Chang (1997) proposes a ‘notable-nominal test’. To see how the test works, let us apply it to the choice faced by the ethics committee.

The first step in the test is to find a ‘nominal’ or bad version of one of the options. Recall that ‘benefits to society’ is a criterion speaking in favour of mining. A nominal version of the mining option could then be ‘environmentally harmful mining with only trivial benefits as a result’. Presumably, this option – we can call it ‘pointless mining’, as opposed to the original option which we can call ‘mining’ – is clearly worse with respect to ethical considerations (representing the all-things-considered judgement in this case, since the two ethical dimensions or set of ethical criteria are part of or constitute the field of ‘ethical considerations’) than the option ‘not mine and protect the environment’, or ‘no mining’ for short. But (formally speaking) if option A is worse than option B with respect to X, then A and B must be comparable with respect to X. In other words, ‘pointless mining’ is comparable to ‘no mining’ with respect to ethical considerations.

The next step in the test is to gradually improve the ‘pointless mining’ option. By a series of small improvements in resulting benefits for society, we can bring ‘pointless mining’ closer and closer to ‘mining’. At some point, they will be (roughly) identical with respect to benefits for society. Chang’s point is that it is implausible that by any such small

¹¹ Parfit uses the terms ‘rough comparability’ (Parfit 1984) and ‘imprecise comparability’ (Parfit 2011).

¹² In contrast to positive judgements, negative judgements are for instance the judgement that *x* is *not* better than *y*, or *not* worse than *y*.

improvement, the options will change overall from being comparable to being incomparable. Hence, the ‘mining’ option must be comparable to the ‘no mining’ option.

It is contested whether the notable-nominal test – also known as the Chaining Argument (CA) – proves the existence of a whole new comparative relation, as Chang claims (e.g. Boot 2009). But even if understood as a borderline case or a case of vagueness,¹³ CA could nevertheless be taken to imply parity in the sense of rough equality between items (Griffin 1986, Parfit 1984). Important in our context is that CA strongly indicates that even if none of the standard comparative terms can be used to compare items, a positive evaluative judgement can in some cases, such as that of the ethics committee, be given on their relative merits in terms of rough equality or parity. (I do not consider parity and rough equality to be significantly different concepts in the practical setting. I will therefore treat them as equivalent in the remaining discussion, and use the term ‘parity’ for simplicity.)

The crucial question remains: What are the implications of parity for justification in hard choices? Can parity help us make a comprehensive judgement and avoid the triviality of weak comparability? One obvious negative implication is that, since parity cannot tell us whether any option is at least as good as any other, optimization is excluded. However, Chang thinks parity can also have positive implications for practical reasoning in hard cases:

Parity expands the range of cases in which justified choice is possible; choices between items about which practical reason might otherwise appear to be silent are in fact choices between comparable items and thus within the scope of practical reason. Parity, it might be said, is what gives practical reason a ‘voice’ in hard cases’ (Chang 2005, 333).

¹³ CA may appear to be an instance of the ‘sorites paradox’ or a problem of vagueness in our language or concepts (cf. Broome 1997). Chang (2014, 2002) argues against this, but the matter is largely unsettled. If the problem is vagueness, then it does not follow from CA that the trichotomy thesis is false. In any case, this does not exclude parity in the form of ‘rough equality’.

It is not clear how the claim about giving a ‘voice’ to practical reason should be understood. However, it seems clear that saying that items are on a par is to say something positive about the value relation between the items. Intuitively, this seems to matter in the context of practical reasoning. But *how* does it matter, exactly?

It seems to follow from the fact that no alternative is better or worse than the others in cases of parity that we have sufficient reason to choose either alternative and are therefore rationally permitted to do so. In turn, this implies that we are rationally permitted to choose arbitrarily between them, for instance by flipping a coin. This implication leaves parity in tension with the phenomenology of ethical choices such as that faced by the hypothetical ethics committee: that the committee is not indifferent between the alternatives suggests that they do not experience the choice as one where they can choose arbitrarily between the alternatives.

As mentioned above in connection with maximizing and satisficing, a plausible explanation for the lack of indifference in these cases is that ethical choices are experienced as too *important* to be decided arbitrarily; they *matter* too much to leave the decision to chance or whim. How then, if at all, can a non-arbitrary justified choice be made between alternatives in hard choices, understood as cases of parity? To answer this question, it is necessary to examine the nature of the *reasons* involved in these cases. That is the starting point of the proposal to which we will now turn.

Self-governance

Chang (2009b, 2013) suggests that in cases where one fails to have more, less, or equal reason to choose one alternative over another – or where we have reason to choose one alternative over another, but how much more reason is indeterminate – we are justified in *creating* a reason through an act of willing. The reason thus created is called a ‘voluntarist reason’, as

opposed to what are called ‘given reasons’, which (for simplicity) can be understood here as our choice criteria.

Chang’s proposal is called ‘hybrid voluntarism’, since it does not rely exclusively on voluntarist reasons, but also on reasons ‘given’ in other ways, such as by desires or normative facts (Chang 2013). In a choice situation characterized by incomplete preferences, hybrid voluntarism would suggest that completeness can be obtained by the agents *deciding* by an act of will to have a preference for one option over the other, even though they have no reasons for their preference on the basis of their choice criteria. ‘Very roughly, when you will something to be a reason, you *put yourself* behind some consideration that, as a logical matter, counts in favor of one of the alternatives’ (Chang 2013, 180).

To explain how this might work, Chang introduces the notion of *rational identity*, which is ‘a description of your normatively ideal self – a loosely unified way of understanding the reasons that justify doing what you have most reason to do’ (Chang 2009b, 261). The basic idea is that we create our rational identities through the choices we make. Therefore, when alternatives are on a par, we should ask: What kind of rational identity do we create (or reinforce) if we choose *x* over *y*? The answer can be used to put ourselves behind a particular option, the choice of which confirms and in a sense constitutes who we are (as rational beings). Chang calls the procedure *self-governance*.

The idea of self-governance is appealing in our context, since presumably we want our choices regarding environmental issues to be rational, in the sense of being responsive to what we have sufficient or decisive reasons to do or not to do – and to express as much as possible an ideally rational way of being. The main problem with Chang’s proposal is its commitment to voluntarism. The notion that we create reasons through willing certain options is problematic for at least two reasons. Firstly, it seems obscure when appealed to in ethical choices of a collective nature. Say that the ethics committee gave the following answer to the question of whether they would recommend the ‘mining’ (a) or ‘no mining’ (b) option:

We find no decisive given reasons to choose either *a* or *b*. Neither are they exactly equal in value. They seem to be on a par. Given this situation, we collectively *will* that the promotion of human welfare is significant for us, and so we give ourselves an additional reason to recommend *a* over *b*.

Suppose further that, in order to clarify this reasoning, someone commented: ‘Ok, so what you mean is that you *want* welfare promotion to be a weightier reason, and thus advise us to choose *a* over *b*’? And the committee answers: ‘No, far from it. We do not *want* welfare promotion to be a weightier reason. We *will* it; we used our autonomy to create a weightier reason for *a*’.

A legitimate response to this would be: ‘But *why* do you ‘will’ it?’ I do not think that the committee can simply answer that it is because they created a reason for it, even if they add that the process behind it is one of ‘autonomous willing’. In the case of individual choice, such as that of choosing a career, the will or desire of the agent may have some authority in justifying the choice. One could also imagine some collective decisions where voluntarist reasons would seem plausible.¹⁴ In ethically charged collective decisions such as that of the ethics committee, however, it is not clear at all why the will of decision-makers should be seen to have this kind of authority.

Secondly, if I can will reasons, then it seems that I can will *any* kind of reason. To use the example by Cohen (1996), if I am a Mafioso, I can will a reason to bust the kneecaps of someone owing me money. This is problematic even if this willed reason does not outweigh my reasons not to do it. It is somewhat unclear whether Chang suggests that willed reasons can be created in all situations but only have normative significance for our choice in

¹⁴ For instance, a group of friends deciding which bar to go to for the evening could determine that Bar A and Bar B are on a par, and then collectively ‘will’ that the lower noise level of Bar A is a reason for the group to choose A over B. (I thank an anonymous reviewer for this example.)

situations where our options are on a par, or that they can only be created when options are on a par. The first suggestion seems implausible because of examples such as that of the Mafioso, the second because the restriction seems arbitrary: if we have the ability to create reasons, it is hard to see why it would be restricted to cases of parity.¹⁵

As I have argued in this paper, we should avoid arbitrariness in ethical hard choices. In the following section I propose that thinking about the role of identity in a more ethically substantive way – namely as involving questions of *moral identity* – can help us deal with the problem of arbitrariness, and moreover suggests an account of justification from identity that is more appropriate to collective environmental decisions.

Moral identity

We can understand moral identity as concerning who we – as individuals or collectives – ideally think we should be in light of some substantive ethical view, for instance on what constitutes a good life.¹⁶ Collectively, moral identity can be understood along two dimensions. The first concerns the extent to which an identity is shared by the community or society in question. We can call this the communal dimension. The second concerns the history of this community – decisions made by the community in the past, their legal and political practices, institutions, and so forth. We can call this the historical dimension.

As an example, consider a moral identity which we can call the ‘green’ identity. The green identity, let us suppose, is guided by a conception of the good life called ‘sustainable development’. Since the concept of sustainable development – defined early on as ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’ (World Commission on Environment and Development

¹⁵ Chang (2009b) seems to believe that Cohen’s objection can be avoided by combining voluntarist reasons with given reasons (yielding hybrid voluntarism). My point here is that the move to avoid Cohen’s objection leads to a problem of arbitrariness in Chang’s theory.

¹⁶ The classical theorist of moral identity is Aristotle (1976 [c. 400 BC]). I develop my view along broadly Aristotelean lines. For alternative views, see e.g. Taylor (1989) and Korsgaard (1996).

1987) – arguably should include some conception of non-human needs and welfare and the inherent (non-anthropocentric) value of nature, let us say that sustainable development is comprised of a concern for present and future human needs and welfare in addition to these non-anthropocentric values.

The green identity connected to this vision of sustainable development might, in its collective form, be captured in statements such as, ‘we are a society that cares for present and future human and animal welfare and respects the inherent value of nature’. As we shall see, invoking such identity statements is different from merely invoking the reasons for them, since moral identity may also influence the importance and weight given to reasons. The gist of the proposal I want to sketch here is that choices can be made in hard cases on the basis of reflections on moral identity. Let us examine the rationale of this proposal.

When agents face choices between ‘notable’ and ‘nominal’ options – for instance a mining project with only trivial benefits for humans and very serious impacts on the environment, versus a very effective protection plan – questions of *identity* seem of little relevance. There is, it seems, no need in such cases to consider complicated questions of who we are, what kind of society we should be, and so on. The choice situation considered in this paper, however, is not one of notable and nominal options, but one of parity (or, if one does not accept the argument against the trichotomy thesis, one of ‘incomparability’ or weak comparability) with respect to the criteria used or the normative factors involved. In this situation, I suggest, it is natural to ask questions about moral identity.

In the ethics committee case, such questions can address how the relevant society identifies itself. It may align more strongly with a green moral identity, expressed in statements such as, ‘We are a society that needs clearly outweighing reasons to support a mining project involving a risk of species extinction and serious environmental degradation’, perhaps favouring a precautionary approach to deep sea mining, or alternatively with a

statement such as, ‘We are a society that puts maximization of human well-being first in decisions having to do with the environment’, perhaps favouring a cost-benefit approach.

Before considering the proposal in more detail, let us look at it in light of the concept of rational choice. Chang’s introduction of voluntarist reasons to resolve hard cases can be interpreted as an attempt to give a more substantive account of rationality than that suggested by given reasons. When the ‘thin’ rationality of given reasons fail, then other types of reasons can justifiably be introduced, implying a ‘thicker’ or more substantive conception of rationality and rational choice. As we have seen, however, voluntarist reasons of the kind that Chang considers are problematic. What kind of reasons are suggested by the concept of moral identity?¹⁷

Korsgaard (1996) argues that without letting ourselves be guided by a conception of our identity, we shall ‘have no reason to act and to live’ (123). This may be an overstatement. However, moral identity seems fundamental at least in the sense that the idea we have of ourselves as moral agents influences the reasons we are disposed to see as significant, or should be disposed to see as significant for our choices. This indicates that moral identity is distinct from an abstract value to be promoted or honoured, or with respect to which comparisons can be made. Rather, moral identity can be seen as (constituted by) a set of traits or dispositions which makes us approach matters in certain ways, including a disposition to take certain values, options or forms of comparison into consideration in the first place.¹⁸

So conceived, one could raise the objection that it is hard to see what kind of reasons moral identity statements can provide. In fact, one could say, the approach appears no less

¹⁷ Could moral identity be one possible rational identity? It may be that moral identity could be seen as a kind of rational identity when the latter is conceived of in the general way that Chang does in the passage quoted in the previous section (Chang 2009b, 261). (This may depend on one’s metaethical views, in particular on whether one conceives of morality as an essentially rational enterprise.) However, when substantiating the concept further, Chang holds that the ability to create reasons is essential to rationality, and that created (voluntarist) reasons can be constitutive of rational identity. The concept of moral identity that I develop here involves no reference to voluntarist reasons, and is at least in that respect different from rational identity as conceived of by Chang.

¹⁸ For a closer examination of how character traits, or virtues and vices, may influence our choices and actions in the environmental context, see Sandler (2007).

arbitrary than the creation of voluntarist reasons. It can be pointed out in response that moral identity can be non-arbitrarily invoked on the basis of the communal and historical dimensions explained above. It is not the case that the ethics committee could choose to invoke *any* moral identity statement. If the statement lacks strength along the communal and historical dimensions, and no other convincing reasons are given for invoking it, then invoking it becomes arbitrary and for that reason should not be thought to provide a reason for a decision.

Particular identities can be morally problematic, however, even if they are strong on these dimensions. Consider the moral identity of a community of slave owners in the 18th century American South. Could they not appeal to the strength of their identity as a ‘white’ community in considering whether they are justified in keeping non-whites as slaves? It may be implausible that ethical considerations are on a par in this case and hence that such an appeal would be justified. Nevertheless, the example shows that our choice (or cultivation or endorsement) of moral identities can have serious consequences. This may be the case even if at some point, and with regard to some type of situations, endorsing the identity was justified. Suppose that the ancestors of the community of slave owners justifiably endorsed an identity of strong ‘in-group’ ties in the face of outside threats to their existence. As this identity became more deeply rooted in the practices of the community, it could influence later generations’ evaluation of the practice of slavery: ‘The slave is not one of us, so he does not deserve equal moral consideration’. In this way, a moral identity that had some justification in earlier times, can become problematic as times change.¹⁹

This shows that we should be careful how we choose or interpret our reasons for decisions that are on a par, as the reasons we give for such choices are likely to travel to non-par situations; we should be careful not to endorse moral identities that are likely to lead to harmful consequences when extended more broadly. In the deep sea mining case, for instance,

¹⁹ This can be related to Charles Taylor’s idea of changing moral frameworks in Taylor (1989).

endorsing the ‘cost-benefit’ identity in a situation of parity could influence choices we later make in situations of nominal-notable options, because the reasons making an option nominal may be given less weight than they would have been given had a green identity previously been endorsed (in a strong enough manner to influence choice). And this applies similarly for the green identity, of course.

Crucially, the fact that identities can be morally problematic suggests that in addition to constraints given by the historical and communal dimensions, moral identities are subject to substantive normative constraints. That some moral identities are more problematic than others, implies that we can have *good reasons* to choose or endorse certain identities over others. While Chang’s self-governance approach implies that we can decide to ‘put ourselves behind’ any reason given in the choice, then, the moral identity approach suggests two types of constraint on our preferences and choices in cases of parity: one is ‘contingent’, in the sense that it depends on historical and sociological facts about particular societies; the other is normative, in that it depends on the reasons we have for preferring one identity over another (independently of contingent facts about our societies).

It may be objected that the historical and communal constraint implies an unjustified conservatism, or a bias in favour of the status quo. The constraint is, as indicated above, largely motivated by pragmatic concerns: it is unlikely that a moral identity with no roots in the history and community of the relevant society can be invoked by the committee to justify a particular choice. Although this may imply a form of conservatism, the pragmatic consideration suggests that it may not be unjustified: decisions are never made in a social or historical vacuum, and some pragmatism will often be necessary in order to reach viable solutions. Furthermore, the normative constraint can (presumably) help ensure that we do not ‘conserve’ or further cultivate a morally problematic or unjustified identity.

Suppose now that for the ethics committee, supporting the mining project and not supporting it are on a par. It then considers possible moral identities that could settle the

matter. It reaches the conclusion that Moral Identity 1 beats Moral Identity 2 because 1 better fits with our history and has loftier moral values. But if Moral Identity 1 is what the committee should employ to determine which option to recommend – suppose it recommends supporting the mining project – does this not mean that the values of Moral Identity 1 were decisive from the outset? In this example, the values of Moral Identity 1 are certainly *relevant* from the outset. But they cannot be decisive: if they were, the situation would not be one of parity in the first place. The point is that deciding on a particular moral identity can provide the committee with a (stronger) reason to make certain values or considerations not only relevant, but decisive for their choice; it can make considerations that are (prima facie) relevant, decisive.

At the same time, the reasons provided by considerations of moral identity need not be implied by the initial choice criteria. The green identity may dispose us to be more respectful in our dealings with the natural environment. Even if this general attitude of respect for nature is not itself part of the choice criteria, it can affect the weight we give to a criterion such as ‘avoidance of harm to the hydrothermal vent environment’. Endorsing the green identity may in this way provide the ethics committee with a stronger reason not to recommend the mining project, or to recommend a precautionary approach to mining.

That the moral identity approach is ‘value-laden’ in this way brings to light a further advantage it may have over Chang’s self-governance approach. As we saw, voluntarist reasons seem to lack justificatory force in ethical hard choices. It is plausible that this is (at least partly) due to their formalistic character: the sheer ‘will’ of agents seems ‘empty’ or purely formal in the voluntarist scheme. In contrast, the appeal to collective moral identity has built into it (so to speak) an appeal to values shared by those identifying with or endorsing it. This substantive character of the moral identity approach lends it a force in ethical cases that is lacking in the more formalistic self-governance approach.

It seems to be a fact about modern pluralistic societies that several justifiable moral identities can be at play in them – which suggests the possibility of moral identities themselves being on a par. This may have significant implications for decision-making in these cases: if there is a plurality of justifiable moral identities at play in a particular society, which may be on a par in given situations, this can (plausibly) be taken to suggest that questions of moral identity do not have ‘expert’ answers, and that broad public debate and deliberative practices of a collective kind are required in order to arrive at adequate moral identity statements. Recall, however, that it is not the case that *any* moral identity will be justifiable: we have no reason to endorse a moral identity with bad influence on our choices.

Conclusion

I have argued that the ethics committee case should be understood as one where options are on a par. I suggested that in the environmental context, where decisions are ethical and collective, a choice between options on a par can be justified on the basis of a ‘moral identity statement’ – that is, a statement about what kind of society we think we should be, in light of some conception of the good life – which adequately reflects the values of the relevant society and is specific enough to guide our choice in concrete cases.

Some issues regarding the moral identity proposal have not been sufficiently dealt with. One concerns how, exactly, moral identity statements should be specified with regard to the historical and communal dimensions and the normative constraint. Another is the worry that it will not always be clear or agreed upon when options are on a par, and thus when the moral identity strategy is justified. Finally, the question of how we should deal with competing moral identities in a pluralistic society deserves closer examination. These complexities point to the need for further discussion of the proposal.

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