

On the Theoretical Significance of G.A. Cohen's Fact-Insensitivity Thesis

Introduction

Near the end of his influential career, G.A. Cohen advanced the meta-ethical claim that fundamental normative principles are necessarily *fact-insensitive*, i.e., that they are justified independently of factual reasons.¹ In his words, 'a principle can reflect or respond to a fact only because it is also a response to a principle that is not a response to a fact (Cohen 2008, p. 232).' In making this claim, Cohen took himself to be contradicting the dominant position in contemporary political philosophy: namely the view that even fundamental normative principles are justified by certain facts, e.g., facts about human psychology (Cohen 2008, p. 229). Not surprisingly, then, numerous philosophers have expressed doubts about his view. From the claim that Cohen's thesis generates an infinite regress (Ypi 2012), to the claim that it turns out to be relatively insignificant (Miller 2008; Pogge 2008; Jubb 2009), many of Cohen's commentators have been unsympathetic.²

In this paper, I hope to shed some light on what the fact-insensitivity thesis accomplishes. My goal is not to defend Cohen's thesis, nor will I attempt to demonstrate its practical significance, as I have already devoted myself to both of these tasks elsewhere (Johannsen

¹ Cohen's thesis, if true, shows that all fundamental principles are fact-insensitive. However, it does not show that all fact-insensitive principles are fundamental. Cohen does not devote much space to addressing how fact-insensitive principles are justified, but it is possible that a full account of their justification would accord some a special role in justifying the others (in which case only some of them would be fundamental). For Cohen's brief comments about the justification of fact-insensitive principles, see Cohen 2008, p. 243, footnote 19.

² For other criticisms, see, for example, Nielsen 2012; and Hall 2013.

2016).³ My specific goal in this paper is to explain what its theoretical significance is if true. For Cohen, the fact-insensitivity thesis is important because it allegedly establishes a category of principle the members of which are insulated from criticisms pertaining to feasibility and the moral costs of implementation.⁴ Establishing this category also insulates moral theories that aim to uncover the content of one or more of the principles populating it. By way of example, he indicates that the fact-insensitivity thesis can be used to insulate luck egalitarianism (Cohen 2008, pp. 271-272 and 300-302).⁵

Cohen's understanding of the significance of his thesis is not incorrect, but I think that his thesis accomplishes more than he may have realized. More specifically, though Cohen assumes that there is a plurality of fundamental principles, he never suggests that anything about the fact-insensitivity thesis justifies this assumption. In my paper, I will argue that the fact-insensitivity thesis supports pluralism in two ways. The first way pertains to the sense in which fundamental principles are insensitive to facts about feasibility and moral costs. As I will explain, Cohen's thesis does not show that such facts have no bearing whatsoever on fundamental principles. What it shows is that they affect the implementation, but not the content, of fundamental principles. When the role of feasibility and moral costs is properly taken into account, it becomes apparent that a plurality of conflicting fundamental principles is less theoretically troublesome than one might think.

³ For another paper defending Cohen's fact-insensitivity thesis, see Forcehimes and Talisse 2013.

⁴ Though I treat facts about feasibility and facts about moral costs as distinct from each other, the distinction is not a sharp one. It is perhaps appropriate to think of the latter as being about the feasibility of implementing one principle without cost to another. See Adam Swift's discussion in Swift 2008, pp. 385-386.

⁵ For his canonical version of luck egalitarianism, see Cohen 1989.

The second way the fact-insensitivity thesis supports pluralism is traceable to a particular vulnerability that fact-insensitivity confers: vulnerability to hypothetical counter-examples. Just as the content of a fundamental principle cannot be criticized on factual grounds, neither can it be defended on factual grounds. As a result, the defender of a particular (alleged) fundamental principle cannot respond to a hypothetical counter-example by claiming that it is unrealistic or that the scenario it describes is avoidable in practice. An upshot of this, as we will see, is that the fact-insensitivity thesis makes it difficult for monists to defend the claim that a particular fundamental principle is *the only* fundamental principle.

The Fact-Insensitivity Thesis

Put very concisely, Cohen's thesis is that any factual reason to endorse a normative principle presupposes a fact-insensitive normative principle (like Cohen, I shall henceforth use the term *principle* for short). Put somewhat less concisely, the view states that for a fact to serve as a reason to endorse a principle, it is necessary that the agent for whom it is a reason be committed to a further, more fundamental principle that connects the fact in question to that which it supports. This implies that any fact-supported principle cannot be an agent's most fundamental principle. In order for the chain of reasoning that justifies a fact-supported principle to terminate, it is necessary that the agent be committed to one or more ultimate principles, not supported by facts.

Cohen is careful to define the terms *fact* and *principle*. He stipulates that 'a normative principle, here, is a general directive that tells agents what (they ought or ought not) to do, and a fact is, or corresponds to, any truth, other than (if any principles are truths) a principle, of a kind that someone might think reasonably supports a principle (Cohen 2008, p. 229).' With these definitions in mind, consider an example Cohen himself offers to illustrate his thesis. He notes

that the fact *keeping promises is necessary for promisees to pursue their personal projects* cannot by itself serve as a reason to endorse the principle *people ought to keep their promises*. In order for it to do so, the agent must believe a further principle that connects said fact to the principle it supports, e.g., a further principle such as *people should help others pursue their projects*. The endorsement of this further principle may or may not itself depend on a fact. If it does, then explaining the justificatory force of this fact requires commitment to yet another principle. When the chain of reasoning eventually stops, though, it must stop at an ultimate principle the endorsement of which does not depend on any fact (Cohen 2008, pp. 234-237).

Following David Miller (Miller 2008, pp. 33-34), I think it is helpful to understand Cohen's thesis as a view about what is needed in order to establish a valid inference. Understood this way, it is clear why the relationship between the fact *keeping promises is necessary for promisees to pursue their personal projects* and the principle *people ought to keep their promises* requires an explanation. Without a further principle to explain why the agent takes a fact to be justificatory, there can be no inferential connection between the fact and the principle the agent *thinks* it supports. And if there is no inferential connection between them, then the fact does not, in fact, qualify as a *reason* for the agent to endorse the principle, i.e., the fact is not adequate or even somewhat adequate to justify the principle, within the context of the agent's belief system.⁶ A principle that serves to complete the inference in this case is *people should help others pursue their projects*.

⁶ My thanks to Mark Rosner, Phil Shadd, and Matt Taylor for conversations that helped me to realize that my interpretation of the fact-insensitivity thesis suggests it is a thesis about the conditions needed for a factual belief to qualify as a *reason* for an agent to endorse a principle.

It is important to Cohen's thesis that the chain of reasoning explaining one's endorsement of a fact-sensitive principle stop at an ultimate principle, rather than continuing on infinitely. Part of the reason Cohen thinks it would have to stop is because he believes it is implausible for one's reasons to be infinite in number. If our minds are finite, then so too are the number of reasons we have for believing a proposition (Cohen 2008, p. 237). In addition, he also claims that that an infinite chain of reasons would violate the clarity of mind requirement, according to which his thesis specifically applies to those with a clear grasp of why they endorse the principles that they do (Cohen 2008, p. 233 and 237). This stipulation makes sense if one keeps in mind that Cohen's thesis is about the doxastic explanation of belief, i.e., it's about beliefs that explain other beliefs.⁷ More specifically, it is about the beliefs that explain why an agent believes in a principle (or, in some cases, the beliefs that explain why an agent believes that a fact supports a principle she is nonetheless somewhat uncertain of). As such, Cohen is specifically interested in cases of belief where a doxastic explanation is, in fact, available. If an agent can explicitly articulate her reasons for endorsing a principle, then we have an available explanation. Alternatively, she might hold a series of inexplicit reasons that could potentially be brought to light with the help of an interrogator. If, however, she does not hold any reasons at all, or, at the other extreme, somehow holds an infinite regression of reasons, then there is no doxastic explanation available for why she endorses the principle she does.⁸

Feasibility and Moral Costs

⁷ Examples of non-doxastic explanations for a belief would be sociological explanations, biological explanations, etc.

⁸ My exegesis of Cohen's thesis is mostly taken from Johannsen 2016, pp. 176-178.

Let us turn to our first object of inquiry: the idea that a fundamental principle is insensitive to facts about feasibility and moral costs in the sense that they affect its implementation, rather than its content; as well as the relationship between this and pluralism. Drawing on the work of Pablo Gilabert, I will suggest that a proper understanding of the role played by such facts entails ascribing a different form to fact-insensitive principles than to action-guiding principles. I will also argue that once we take these contrasting forms into account, it turns out that a plurality of conflicting fundamental, fact-insensitive principles is less theoretically troubling than a plurality of conflicting action-guiding principles.

The idea that there is something troubling about conflicting principles is discussed at length in chapter 4 of Michael Stocker's *Plural and Conflicting Values*. According to Stocker, one of the major worries about value pluralism is that it seems to undermine the rationality of ethics, i.e., the idea that in any morally relevant situation there is always a correct course of action. If value A requires an agent to perform action X in circumstance C, and value B requires her to perform action Y in circumstance C, and actions X and Y are impossible, then what is the agent to do? She cannot fulfill both of her moral requirements, and thus it seems she is doomed to moral failure. Value pluralism ostensibly entails that conflicts like this are common and inescapable. It fills our moral universe with impossible directives, and impossible directives preclude a correct course of action.⁹

Stocker's reply to this worry is that it presupposes that moral directives are always action-guiding. If there are directives that serve other functions, then he thinks moral conflict

⁹ Stocker himself expresses the issue somewhat differently, but his comments boil down to the same basic question: Does value conflict preclude a correct course of action? For a lengthy list of relevant references, see Stocker 1992, chapter 4, note 1.

need not be so troublesome (Stocker 1992, p. 86). Though Stocker himself focuses on the idea that an action-guiding directive can conflict with a non-action-guiding directive without entailing irrationality, I am going to focus on conflict between fundamental principles. Such conflict is, after all, the real issue for those who think there is a plurality of fundamental principles. In what follows, I will argue that a proper understanding of the sense in which fundamental principles are insensitive to facts about feasibility and moral costs entails that conflict is not so troubling. First, though, I will illustrate this sense with an example.

Consider a version of the levelling-down objection to distributive equality. Many of those with productive talents would allegedly refrain from employing them under conditions of strict equality, as strict equality prohibits economic incentives. Since everyone is better off when productive talents are exercised, equality-upsetting incentives are ostensibly justified. It is for this reason (among others) that John Rawls famously leaves space for ‘necessary’ inequalities (Rawls 1971, pp. 75-80).¹⁰

The above version of the levelling-down objection asserts the following factual claim: *it is not feasible to achieve distributive equality without making everyone worse off*.¹¹ This fact implies that the moral cost of realizing strict equality is too high, and thus it ostensibly suggests that any plausible egalitarian principle must permit certain inequalities. Though the levelling-down objection is powerful, understanding distributive equality as fact-insensitive, rather than action-guiding, entails a different interpretation of the objection’s significance. On this interpretation, there is still a role for a principle of strict equality: it serves as a justificatory

¹⁰ For his critique of incentives, see Cohen 2008, chapter 1.

¹¹ Though one way to achieve equality without levelling down is by forcing the talented to work extra hard and pursue productive careers. See Cohen’s discussion of the egalitarian’s trilemma in Cohen 2008, chapter 5.

ground. As per Cohen's fact-insensitivity thesis, the fact that *it is not feasible to achieve distributive equality without making everyone worse off* cannot entail a revised egalitarian principle by itself. If we want to know why this fact supports a principle along the lines of *citizens should permit only necessary inequalities (inequalities that work to all citizens' benefit) in their society* then one or more additional principles are needed to complete the entailment.¹² For example, the pair of principles *citizens should realize an equal distribution of X in their society* and *citizens should promote the interests of those who live in their society* would serve this function. Here is a reconstruction of what I have in mind:

Premise 1: Citizens should realize an equal distribution of X in their society.

Premise 2: It is not feasible to achieve an equal distribution of X without making all citizens worse off.

Premise 3: Citizens should promote the interests of those who live in their society.

Conclusion: Citizens should permit only necessary inequalities in their society.

When perceived through the lens of Cohen's thesis, then, the version of the leveling-down objection under discussion serves two functions: On the one hand, it prevents strict equality from playing an action-guiding role. On the other hand, though, the fact it asserts is a premise which, when combined with a principle of strict equality (and a principle of interest promotion), justifies the action-guiding requirement to permit only necessary inequalities. This illustrates a general

¹² Cohen himself seems comfortable with an action-guiding principle that permits necessary inequalities, though he also thinks a just society would possess an ethos that makes some otherwise necessary inequalities, e.g., incentive inequalities, unnecessary. See Cohen 2008, chapters 1 and 3.

truth about fact-insensitive principles: that feasibility and moral costs affect them indirectly. More specifically, facts that pertain to feasibility and moral costs restrict the implementation of fact-insensitive principles by restricting the content of action-guiding principles.

The above understanding of the relationship between fact-insensitive principles and facts about feasibility and moral costs entails that fact-insensitive principles have a unique form. Though expressing them in the same form as action-guiding principles is useful as a kind of shorthand, accurately conveying their normativity requires building in qualifications. On Pablo Gilabert's helpful formalization, an action-guiding principle states that *A (a set of agents) ought to X (perform a certain action) in C (a particular set of circumstances)*. In contrast, a fact-insensitive principle states *A ought to X in C to the extent that they reasonably can*, where *reasonably* recognizes the significance of potential moral costs and *can* recognizes the significance of feasibility constraints (Gilabert 2011, pp. 55-57).

We now have sufficient information to return to our discussion of conflict between fundamental principles and its implications for the rationality of ethics. Does such conflict, when and if it occurs, entail that there is no correct course of action? I do not think it does, at least not if fundamental principles are fact-insensitive. When the contrasting structure of fact-insensitive and action-guiding principles is made explicit, it becomes apparent that conflicts between principles of the former kind are not analogous to conflicts between principles of the latter kind. Conflicts between action-guiding principles are more troublesome because they involve impossibility. To endorse the claims *A ought to X in C* and *A ought to Y in C*, in spite of it being impossible to jointly X and Y in C, is to endorse an inconsistent set of claims. If conflict between fundamental principles required this, then it would indeed entail moral irrationality. Thankfully, however, Cohen's thesis suggests that it does not. To endorse the

claims *A ought to X in C to the extent that they reasonably can* and *A ought to Y in C to the extent that they reasonably can*, in spite of it being impossible to jointly maximize X and Y in C, is not to endorse inconsistent claims. The pursuit of X and Y, though in tension, is not impossible when the form of the principles representing them has a built in allowance for trade-offs. Determining an optimal balance may be tricky, but there is no reason to doubt in advance that a rational compromise between the two exists.

Hypothetical Counter-Examples

In the previous section, I argued that a proper understanding of the relationship between fact-insensitive principles and facts about feasibility and moral costs shows that the fact-insensitivity thesis solves a theoretical problem facing pluralism. Since feasibility and moral costs specifically affect a fact-insensitive principle's implementation, the form of a fact-insensitive *ought* includes qualifications that remove the impossibility associated with conflict. The removal of impossibility does not, of course, *establish* the claim that there is a plurality of fundamental principles. There may (or may not) be other problems that suffice to undermine pluralism. The removal of impossibility does *support* pluralism, however, as it solves a difficulty that, left unsolved, pushes us in the direction of monism.

In this section, my goal is to connect the fact-insensitivity thesis to pluralism in a second way. To do so, I will argue, first, that fundamental principles, if fact-insensitive, are especially vulnerable to hypothetical counter-examples. Second, I will argue that such counter-examples make it difficult to defend the claim that a particular fundamental principle is *the only* fundamental principle. To be fair, the difficulty I will raise presupposes that monists should specify a principle. If the claim that there is only one fundamental principle can be well-supported without telling us what that principle is, then the worry I will raise is less significant.

However, I assume monism's plausibility is at least increased if monists are able to justify a particular fundamental principle, and the problem I raise here suggests that they will have trouble doing so if fundamental principles are fact-insensitive.

To see why I think hypothetical counter-examples are problematic for monists, consider Cohen's illuminating discussion of the slavery objection to utilitarianism (Cohen 2008, pp. 264-265). On one version of this objection, the objector is rejecting the principle of utility as a viable action-guiding principle. She is saying 'I oppose utilitarianism because if we adopt utilitarianism then we might face circumstances in which (because it maximizes happiness) we should have to institute slavery, and I am against *ever* instituting slavery (Cohen 2008, p. 264).' On this version, the objector's concern is with the supposed *fact* that utilitarianism could at some point prescribe slavery. Since she is unwilling to take this risk, she would rather society adhere to some other principle instead. As a result, if she were to be given conclusive evidence demonstrating that there is no such risk, then her objection would be defeated. Slavery is only a problem for action-guiding utilitarianism if there is a possibility that happiness maximization will one day require it.

Implicit in the slavery objection to action-guiding utilitarianism is a second objection not sensitive to actuarial calculations. Unlike the first, it leaves aside the principle of utility's action-guiding potential and specifically addresses it as a fact-insensitive principle. Were the objector to explicitly state it, she would say 'I oppose utilitarianism because it says that if circumstances were such that we could maximize utility only by instituting slavery, then we should do so, and I do not think that would be a good reason for instituting slavery (Cohen 2008, p. 264).' With respect to this second objection, whether there actually is a risk that utilitarianism could end up prescribing slavery is irrelevant. The objector's concern is not with the possibility that slavery

and happiness maximization might someday coincide but with the moral force utilitarians ascribe the latter. She rejects the claim that, hypothetically speaking, we ought to implement slavery if it ever maximized happiness.

Though Cohen does not present it as such, I think the second slavery objection is most persuasive when interpreted as a rejection of the claim that the principle of utility is the only fundamental principle. On my interpretation, the objector is saying that the realm of moral desirability is more complex than utilitarians would have us believe. This interpretation is supported by the observation that the principle of utility can be rescued from her objection (though not necessarily other objections) if located within a pluralistic framework. Though her objection cannot be defeated by citing the supposed *fact* that slavery is unlikely to coincide with welfare maximization, we can say that slavery is condemned by other fundamental principles, and thus that it would be *unreasonable* to maximize welfare *if* doing so required slavery. More specifically, we can say that instituting slavery to maximize happiness would be efficient but far too unfair. It would involve dramatically sacrificing the interests of some for the interests of others and thus should not be permitted, all things considered.

Consider also how a hypothetical version of the levelling-down objection could be used to defeat the claim that distributive equality is the only fundamental principle. On this version, the objection is not that implementing strict equality requires levelling down because of facts about what the talented would do. Instead, the claim is that egalitarian monism entails that *if* circumstances were such that equality required levelling down, *then* we ought to level down. In light of this objection, it is far more plausible to allow that distributive equality is one among a plurality of fundamental principles, rather than the only one. If we allow this, then we can say

that levelling down for the sake of equality is fair but far too inefficient. It would involve sacrificing everyone's interests and thus should not be permitted, all things considered.¹³

The above point concerning vulnerability to hypothetical counter-examples is generalizable. Take any putative fundamental, fact-insensitive principle, e.g., a principle of equality, a principle of respect, etc. If, after testing this principle against the considered judgments you have about a broad range of hypothetical cases, you find that you are unwilling to implement it across all of them, then the principle is either (a) unjustified, or (b) not the only fundamental principle. As we already noted, fact-insensitivity rules out alternative (c): that we can put aside certain hypothetical cases because they are unrealistic or avoidable in practice. I would hazard a guess that most people willing to go through such a test would find that none of their fundamental principles lack counter-intuitive implications. If I am right, then the fact-insensitivity thesis entails that monism is introspectively vulnerable in a way that pluralism is not.

In conclusion, I hope to have demonstrated that the fact-insensitivity thesis is more theoretically significant than Cohen may have realized. If my arguments are sound, then the fact-insensitivity thesis provides considerable support for the claim that there is a plurality of fundamental principles. Of course, my arguments would be far less interesting if Cohen's thesis were shown to be false. At the very least, though, an appreciation for the fact-insensitivity thesis's significance suggests that those who feel strongly about Cohen's other claims, e.g., those who are strongly for or against pluralism, should devote some effort to assessing its merits.

¹³ Cohen and Larry Temkin hold the view that levelling down is *fair* and yet nonetheless *wrong*, all things considered. See Temkin 2002, pp. 154-155; and Cohen 2008, pp. 315-323.

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References

Cohen, G.A. 1989. On the currency of egalitarian justice. *Ethics* 99: 906-944.

Cohen, G.A. 2008. *Rescuing justice and equality*. Cambridge, MA: Harvard University Press.

Forechimes, Andrew T., and Robert B. Talisse. 2013. Clarifying Cohen: A response to Jubb and Hall. *Res Publica* 19: 371-379.

Gilabert, Pablo. 2011. Feasibility and socialism. *The Journal of Political Philosophy* 19: 52-63.

Hall, Edward. 2013. Political realism and fact-sensitivity. *Res Publica* 19: 173-181.

Johannsen, Kyle. 2016. Explanation and justification: Understanding the functions of fact-insensitive principles. *Socialist Studies* 11: 174-186.

Jubb, Robert. 2009. Logical and epistemic foundationalism about grounding: the triviality of facts and principles. *Res Publica* 15: 337-353.

Miller, David. 2008. Political philosophy for earthlings. In *Political theory: Methods and approaches*, eds. David Leopold and Marc Stears, 29-48. Oxford: Oxford University Press.

Nielsen, Kai. 2012. Rescuing political theory from fact-insensitivity. *Socialist Studies* 8: 216-245.

Pogge, Thomas. 2008. Cohen to the rescue! *Ratio* 21: 454-475.

Swift, Adam. 2008. The value of philosophy in nonideal circumstances. *Social Theory and Practice* 34: 363-387.

Stocker, Michael. 1992. *Plural and conflicting values*. Oxford: Oxford University Press.

Temkin, Larry. 2002. Equality, priority, and the levelling down objection. In *The ideal of equality*, eds. Matthew Clayton and Andrew Williams, 126-161. New York: Palgrave-Macmillan.

Ypi, Lea. 2012. Facts, principles and the third man. *Socialist Studies* 8: 196-215.