ABSTRACT. The theory of principlism elaborated by Beauchamp and Childress in *Principles of Biomedical Ethics* has become extremely influential in bioethics. The theory employs the idea of the common morality as a foundation for the principles of autonomy, beneficence, nonmaleficence, and justice. According to this account, the content of the common morality is universal and constant, while variability in morals is due to the fact that the issue of who is included within the scope of moral status evolves over time. This suggests that issues of moral status are not part of the common morality at all, and this presents a conundrum: questions of moral status seem central to any substantive account of justice, and any conception of the common morality that excludes moral status therefore seems inadequate for supporting a robust principle of justice. We argue that proponents of common morality theory are left with four options: (1) making moral status a part of the objective common morality and ignoring evidence that views about moral status do seem to vary over time and place; (2) excluding justice from the substantive content of the common morality; (3) taking common morality to be an imperfect approximation of an independently justified and universal foundationalist ethic against which the common morality is judged; or (4) weakening claims about the universality of common morality, thereby allowing the common morality to support a variety of principles of justice applicable only within particular communities that have specified the scope of moral status. We suspect that proponents of common morality theory will not view any of these options favorably, which raises questions about the ultimate contribution of that account.

INTRODUCTION

The idea that ethics can be derived from a common morality, while controversial, has become very influential in biomedical ethics. Although the concept is employed by several theories, it has most
prominently been given a central role in principlism, an ethical theory endorsed by Tom Beauchamp and James Childress in *Principles of Biomedical Ethics* (2009).\(^1\) This text has become a cornerstone of medical ethics education, an achievement that has been commended by critics and supporters alike. It articulates a system of ethical decision making that is firmly rooted in claims about the common morality.

Beauchamp and Childress’s theory of common morality has been both defended and criticized in the bioethics literature. Some critics have argued that the theory is mistaken in assertion of the universality of the common morality (see, e.g., Turner 2003), or that appeals to universality are unnecessary (see, e.g., Arras 2009), or that the common morality is necessary but insufficient (see, e.g., Lindsay 2009). Others have argued that the common morality must be judged against a standard that is external to it (see, e.g., Wallace 2009).

We present a different critique—one that is more formal. We argue that the theory itself presents an important conundrum. Since Beauchamp and Childress support their claim for the universality of the common morality by positing that issues of moral status (which they acknowledge to be culturally and temporally variable) are not part of the common morality, we argue that they drain their theory of its capacity to support a robust principle of justice. Given the centrality of questions of moral status to any robust theory of justice, and given the importance of justice in any adequate account of ethics, one is led to question the adequacy of common morality principlism. We suggest four ways to try to salvage this theory, but suspect that Beauchamp and Childress would resist all four of these moves. This raises questions about the ultimate contribution their theory can make to biomedical ethics.

**THE COMMON MORALITY IN *PRINCIPLES OF BIOMEDICAL ETHICS***

In their renowned and widely read *Principles of Biomedical Ethics*, Beauchamp and Childress define the common morality as “the set of norms shared by all persons committed to morality” (2009, p. 3). They distinguish between the common morality, which applies to all persons in all places under all circumstances, and particular moralities, which are developed by individual societies through a process of specifying the common morality and balancing norms to achieve coherence (p. 16–24). Thus, when Beauchamp and Childress claim that all morally serious persons share a commitment to the common morality, they refer only to the most general moral norms: do not kill, do not cause pain or suffer-
ing to others, prevent evil or harm from occurring, and so forth (p. 3). By contrast, particular moralities are specific rules of conduct developed by individual societies to address ethical questions as they relate to the particular circumstances of daily living. There may be several different, yet equally coherent, particular moralities designed to uphold the more general norms of the common morality (p. 16). It is up to individual cultures to balance the norms of the common morality in developing their own specified rules of conduct. These culturally specified rules, in turn, must be specified and balanced by individuals making moral decisions in particular circumstances.

The common morality plays an indispensable role in Beauchamp and Childress’s account of principlism, serving as the starting point for reflective equilibrium. Borrowing from Rawls, the authors argue that moral reasoning begins with considered judgments—those judgments that are most likely to display our moral capacities without distortion. From considered judgments, one proceeds by a process of specifying and balancing until a coherent moral framework is achieved (p. 382). In this way, the process of specifying and balancing is equivalent to the Rawlsian method of reflective equilibrium in that both provide a tool for deriving specified moral rules from considered judgments (Rawls 2005). For Beauchamp and Childress, considered judgments are judgments that arise out of the common morality, as these are the only judgments that remain undistorted by individual cultures and circumstances. It is sometimes unclear from their writings whether Beauchamp and Childress view considered judgments as constitutive parts of the common morality or merely a best approximation of it, but whatever the case may be, Beauchamp and Childress treat considered judgments as the link between the common morality and everyday moral reasoning. For instance, one might hold considered judgments that it is wrong to kill; that it is one’s duty to alleviate suffering; that persons ought to be treated with respect. One might then specify these norms and balance them as they relate to a specific moral dilemma. Thus, issues as complicated as abortion and euthanasia might be addressed through the application of considered judgments about the common morality.

In an intermediate step, the authors propose four fundamental principles that function as very basic *prima facie* rules for moral conduct. These familiar principles are autonomy, beneficence, nonmaleficence, and justice. So that moral agents need not work directly from considered judgments, these principles organize ethically relevant issues in a way that is more easily applicable to diverse moral questions. For example, the principle
of nonmaleficence captures a common feature of several considered judgments and expresses it as the general norm that one ought not to harm another person. The four principles, then, are an expression of the common morality, an explication of the shared features that are most fundamental in our considered moral judgments. More importantly, the principles serve as the basis for further specification. The authors argue that, in developing particular moralities, individuals generally weigh the importance of key principles rather than reflecting on their considered judgments per se. Thus, the four principles serve as a key intermediate between our considered judgments and the particular moralities that guide our everyday actions.

Perhaps the most important feature of Beauchamp and Childress's common morality—and the one most targeted by critics—is its claim of universality. The authors state that the common morality is shared by all persons in all places, provided they are committed to morality (p. 3). While questions remain about what exactly it means for a person to be committed to morality, Beauchamp and Childress argue that the common morality transcends cultural and geographic boundaries. Additionally, it appears that the common morality is meant to be atemporal. While the authors hold that the common morality is not ahistorical or a priori, they believe that the content of the common morality stays constant through time. In their discussion of moral change, Beauchamp and Childress state that although it cannot be dogmatically asserted that moral norms in the common morality cannot change, it is difficult to construct even a single actual or plausible hypothetical example of a moral principle in the common morality that has been valid only for some limited duration. (p. 390)

Therefore, while the authors acknowledge that the common morality has developed within the context of human experience, they suggest that it has remained unchanged throughout the course of recorded history. Moreover, they imply that this constancy is more than mere coincidence, and while they demur from claims of apodictic necessity, the authors argue that the content of the common morality is all but immutable.

CHANGES IN THE COMMON MORALITY: THE ISSUE OF MORAL STATUS

Claims of a universal common morality in the fifth edition of Principles of Biomedical Ethics led to major criticism by ethicists who viewed such widespread consensus as implausible. Turner, for instance, argued that the diversity of moral traditions in pluralistic societies weighs against the plausibility of a common morality (2003). In response to this and other
criticisms, Beauchamp developed an account of moral change that he believes reconciles the apparent diversity of moral positions with his claims about the common morality. First proposed in 2003, this account became a key feature of the sixth edition of the *Principles of Biomedical Ethics*. According to this account, the common morality changes with respect to the scope of its principles, even if the principles themselves remain constant (Beauchamp and Childress 2009, p. 390). By this, Beauchamp and Childress mean that the common morality changes in response to shifts in consensus about which individuals are deemed to belong to the moral community. In other words, changes in the scope of the common morality reflect changes in the account of which individuals qualify for moral status. Accordingly, Beauchamp would argue that the emancipation of slaves, efforts to bring about gender equality, and regulation of the treatment of laboratory animals do not represent changes in the principles that comprise the common morality. Rather, these changes represent an extension of moral status to individuals who were previously thought to lie outside the scope of application of the norms of the common morality.

Beauchamp and Childress focus on changes that have occurred over time. For example, African Americans and women were previously marginalized with respect to the common morality in the United States, but have since been recognized as deserving of full moral status. However, if one applies this reasoning to differences between cultures, it appears that the common morality must also allow for varying judgments about moral status at a single point in history. For instance, the status of women varies dramatically across the globe, a fact which is made disturbingly clear in the 2012 World Development Report on Gender Equality and Development (World Bank 2012). Likewise, the 2012 Trafficking in Persons Report from the U.S. Department of State reveals huge variability in the extent to which cultures tolerate slavery (U.S. Department of State 2012). It thus seems inescapably true as an empirical fact that issues of moral status vary across cultures in the same way that they vary over time. In order to align these observations with Beauchamp’s assertion that the scope of applicability of the common morality can evolve over time, one might offer the explanation that particular moral communities vary in the pace at which they take up trends in the broader evolution of the common morality. While a bit *ad hoc*, this would not be an implausible explanation for the observed cultural variability in conceptions of the scope of applicability of the common morality. Further, such an explanation might be easier to
defend than an account on which the scope of the common morality varies independently across time and between cultures.

Beauchamp and Childress thus define the common morality as the set of universal and constant norms shared by all persons committed to morality, while acknowledging that issues of moral status vary dramatically over time and between cultures. This implies that issues of moral status—what Beauchamp and Childress call the scope of the common morality—cannot be part of the common morality at all. Rather than situating the ever-changing, highly variable issue of moral status within the constant, universal principles of the common morality, Beauchamp and Childress seem to be proposing that we treat the common morality as a set of answers to first-order moral questions and treat the question of moral status as a second-order question. That is, their distinction seems to be between first-order ethical principles and second-order questions of scope. Although at times it seems as if the authors wish to keep moral status within the bounds of the common morality, such an effort is inconsistent with their definition of the common morality and their explanation of moral change. The common morality is constant and universal; issues of moral status are not.

How, then, do issues of moral status interdigitate with the common morality? At first blush, one might suggest that issues of moral status are articulated in particular moralities—the moralities developed by individual cultures specifying the norms of the common morality. On further examination, however, this suggestion is not available to proponents of the common morality. Ronald Lindsay explicates the problems with this claim, saying

specification starts from the norms of the common morality—or norms that can be derived from those norms. If an unbridgeable distinction exists between the content and the range of applicability of a norm, it follows that the determination of an entity’s moral status cannot be a result of the specification of a norm of the common morality. Where the question to be resolved is whether the norm has any relevance to the disputed entity, the norm itself will provide little or no assistance in resolving this question. (2005)

Thus, in providing an explanation for moral change, Beauchamp and Childress may critically weaken their theory. In making a sharp distinction between the first-order content of the common morality and the second-order questions of its scope, they seem to deprive their theory of the common morality of its ability to address questions of moral status.
Perhaps, however, Beauchamp and Childress could propose an alternate relationship between moral status and the common morality. Beauchamp, in fact, did suggest one such alternative in 2003. He proposed that changes in scope are justified by the objectives of morality. Beauchamp writes that “to the extent that the common morality itself stands in need of improvement, one can hope to make those improvements by revising the normative guidelines necessary to achieve the fundamental objectives of morality” (2003). With this move, he builds in a means to extend moral status to all human beings, so long as such a change aligns with the objectives of morality. The problem, however, is that Beauchamp provides only a cursory account of what the objectives of morality are and even less of a justification for his position. As Lindsay notes in his critique, Beauchamp appears to define the objectives of morality as the promotion of human flourishing, but fails to justify his assertion that all human beings are included within the scope of these objectives. Moreover, Beauchamp fails to defend the position that the objectives of morality have remained constant over time, a feature that is absolutely necessary if these objectives are to provide a link between issues of moral status and the principles of the common morality. In fact, Lindsay argues very convincingly that the promotion of human flourishing has not always held as esteemed a position as Beauchamp suggests. Thus, the objectives of morality, as defined by Beauchamp, lack the constancy and empirical support to link the principles of the common morality to issues of moral status.

The more recent editions of Principles of Biomedical Ethics do little to address these concerns, and it remains to be seen how Beauchamp and Childress's theory will evolve in the future. Nevertheless, if they are to preserve their theory of a universal common morality in the face of cross-cultural and historical differences regarding issues of moral status, Beauchamp and Childress's best option may be to accept that issues of moral status are beyond the scope of the common morality. This seems the only option if they are to reconcile the apparent temporal evolution of the common morality with their thesis that its content is invariable. In the rest of this paper, we will explore this option more fully, concentrating on the principle of justice.

MORAL STATUS, JUSTICE, AND THE COMMON MORALITY

Despite significant skepticism about their place in the common morality (see Turner 2003 and Lindsay 2005 for examples), the four principles of autonomy, beneficence, nonmaleficence, and justice have become firmly
entrenched in medical ethics discourse (see Gillon 1994). To date, however, criticism of the claim of universality in Beauchamp and Childress’s theory of common morality principlism has focused largely on the empirical fact that there is no cross-cultural consensus regarding these four principles. We intend to focus our critique more narrowly and theoretically, concentrating on the principle of justice. We argue that the theory of common morality advanced by Beauchamp and Childress in *Principles of Biomedical Ethics* cannot support a principle of justice that is sufficiently robust to do the work bioethics requires of it.

The concept of justice has a long history in ethics, and it would be impossible to provide a concise definition that would be universally appealing. However, Beauchamp and Childress make a start by stating an Aristotelian minimum requirement for justice: equals must be treated equally, and unequals must be treated unequally (2009, p. 242). The authors correctly note that this is a formal principle without substantive content. To say that equals should be treated equally carries little weight until one identifies the respects in which they ought to be treated equally. Moreover, this statement says nothing about the degree of equality that warrants equal treatment. A human being and a small boulder might have equal mass, but surely this coincidence is not the sort of thing that requires equal treatment under the principle of justice. Presumably, the type of equality being referred to here is something like equality in moral status. In other words, it seems reasonable to assert that the formal principle of justice refers to individuals who are equally included in the moral community.

**Justice and Moral Status as Personhood**

Perhaps a more informative definition of justice would be that equal *persons* must be treated equally. This modification seems plausible, but obviously depends critically upon one’s definition of a person. The problem is that the definition of a person is itself controversial. On the one hand, someone like Peter Singer would argue that at least some animals are endowed with some degree of personhood (Singer 2011, pp. 94–100). On the other hand, others would argue that only human beings rightly fall under the category of persons (Taylor 1985; Dunstan 1984). Further, there is broad disagreement about the circumstances under which even a human being can rightly be described as a person. Some believe that personhood begins at conception, whereas others might exclude fetuses, anencephalic infants, or individuals in a permanent vegetative state.
Without a specification of the scope of personhood, the concept of justice for persons is merely formal and lacks content. Merely defining justice as a principle that applies to persons neither buttresses the argument that the common morality is universal nor gives the principle of justice a robust substantive content.

**Moral Status and Principles: First- or Second-Order Questions?**

Every ethical principle requires a specification of moral status for its practical application. The principle of autonomy, for example, calls for respecting the self-determination of self-governing individuals, but one must specify which individuals deserve to be treated in this way. The same can be said for beneficence and nonmaleficence: acting on these principles requires specification of the set of individuals who should be helped and not harmed. Nonetheless, one *can* distinguish between first-order and second-order questions with respect to ethical principles, and this seems to be what Beauchamp and Childress are suggesting. The only plausible way to make sense of their account would be to understand them as arguing that the substantive content of a principle is a first-order question whereas the scope of its applicability is second order. This enables them to conceive of ethical principles in a universal fashion, abstracting from the question of to whom (or to what) they apply. They seem to suggest that it is only in their application that principles require an account of moral status; a determination of to whom they apply. A distinction between first-order questions of substance and second-order questions of scope thus allows Beauchamp and Childress to argue that what appear to be changes in the common morality are actually changes in the scope of applicability of its constant moral principles.

It is not implausible to suggest that the principles of autonomy, beneficence, and nonmaleficence do not require a specification of the scope of their applicability in order to have content. That is, it seems that these principles can be understood substantively as first-order ethical concepts independently of any second-order questions about the scope of their applicability. One can imagine quite easily what it would be to regard a person as autonomous even without knowing the sorts of individuals that count as persons. After all, we can use the language of autonomy to describe nation-states without implying that we regard them as persons. Likewise, one could conceive of beneficence and nonmaleficence merely by understanding the concepts of help and harm, pleasure and pain. Whether
these concepts are to be applied to fish can be considered a separate matter, but nonmaleficence toward a human being and nonmaleficence toward a fish both imply that one should not cause either undue pain.

Although their application requires an account of moral status, questions of moral status are not per se questions of autonomy, beneficence, or nonmaleficence. Moral status is not a material question of respect for autonomy, but of who deserves whatever one has otherwise determined to be an autonomous right. Moral status is not a material question of beneficence, but of who deserves whatever one has otherwise determined to be a particular duty to do good that one owes to those who have moral standing. Moral status is not a material question of nonmaleficence, but of who deserves protection from whatever harm one has otherwise determined ought not to be perpetrated against those who have moral standing.

Conversely, when one talks about an individual’s right to self-determination, the moral status of the individual as a rights-bearing person has been taken for granted. Similarly, when one talks about acting upon duties of beneficence and nonmaleficence, the standing of those towards whom one has such duties must already have been specified. Thus, one can grant to Beauchamp and Childress a plausible argument that questions of autonomy, beneficence, and nonmaleficence are not per se questions of moral status, but rather questions of how to treat those who have otherwise been determined to fall within the scope of applicability of morality. Thus, the distinction between substantive, first-order questions of the principles of common morality and second-order questions of scope seems plausible to hold when considering autonomy, beneficence, and nonmaleficence. Treating questions of moral status as second-order questions seems workable with respect to these three principles. This difference between the principles of ethics and the scope of their applicability might thus plausibly provide a basis for Beauchamp and Childress’s account of the common morality as a set of universal answers to first-order moral questions that remains constant even while the answers to second-order questions of moral status evolve.

Moral Status and Justice: A First- or Second-Order Question?

The principle of justice, however, differs from the other principles in the manner in which it is related to the question of moral scope. Whereas it is plausible to suggest that an account of moral status is required only in the actual exercise of principles such as autonomy, beneficence, and
nonmaleficence, an account of moral status is required for the very con-
ception of the principle of justice. The question of moral status may, in
fact, be the central first-order question of justice. If justice is construed
as fairness (see Rawls 1999), then questions of the scope of applicability
of the principles of ethics are fundamental to any conception of justice.

Desert is accounted among the classical material principles of justice.
Thus the question of moral standing is a substantive, first-order question
of justice. Whereas one may ask, plausibly, who deserves the rights of au-
tonomy, the goods of beneficence, and the protections of nonmaleficence,
one cannot ask, coherently, “Who deserves desert?” Questions of moral
standing, of the scope of applicability of morality, are questions of justice.

Questions of civil rights, for instance, are paradigmatically questions
of justice and are concerned solely with the question of who should be
afforded equal moral status. Distributive justice describes the way in
which physical resources should be spread among a population, but the
first question justice must ask is how that population is defined. Like-
wise, political justice prescribes the fair distribution of power and influ-
ence, but the first question one must ask, as a matter of justice, is among
whom power and influence should be shared. Changes in who count as
members of the moral community not only alter the size and makeup of
the population to which the principle of justice applies, they constitute
matters of justice. Consider a particular communitarian theory of justice
that calls for the equal distribution of resources among the members of
the community. A specification of the scope of the moral community to
which this theory is to be applied is a first-order question about the very
meaning of justice according to such a theory. A “communitarian” theory
that limited moral status to the very wealthy would be criticized as unjust
and un-communitarian even if it were formally egalitarian and formally
fair. A theory of justice that abstracts from questions of moral status, such
as “treat those with equal moral status equally,” is merely a formal (and
not a substantive) principle of justice.

If the first question of justice is fairness, the “to whom” question cannot
be considered a second-order question. The answer to the question—who
is an equal who must be treated equally—is central to any substantive
principle of justice, and without an answer to that question, justice is
merely formal and has no actual content. Moral status is a central, first-
order question of any substantive principle of justice.
The Concrete Consequences of Moral Status as a First-Order Question of Justice

Consider also the concrete consequences that changes in the scope of applicability of the common morality have with respect to distributive justice. Under any given theory of justice, given finite resources, an expansion of the group among whom resources are to be distributed necessitates taking resources from the existing members and redistributing them among the newcomers. This is not the case with Beauchamp and Childress’s other principles, which can be read strictly as concerning only the rights and obligations of individuals with respect to other individuals. For instance, the conferral of full moral status to one or more species of animal would not impact any human being’s right to self-governance under the principle of autonomy, or affect a human being’s right to be treated beneficently and not maleficently. By contrast, such an expansion of the scope of moral status would have very concrete implications for human beings with regard to resource distribution—some of the food that might have been consigned to starving human beings would now need to be redistributed to starving animals of the species newly afforded full moral status.

Thus, while the other three principles can be conceived abstractly and applied to individual relationships once one has specified the scope of the moral community, justice requires a specification of moral status from the very beginning. The idea of distribution, for instance, presupposes a group of individuals. Without such a group the notion of distribution is conceptually empty. In developing a theory of justice, one begins with an affirmation that some group of persons deserves fair treatment and proceeds by devising a system to ensure that such fairness is realized. Until the group of persons has been defined, however, the idea of justice is merely formal.

This is an important difference between justice and the other principles. Questions of moral status are first-order questions of justice with immediate concrete implications. Given finite resources, to expand the scope of the moral community is to take resources away from members of the existing group. Specifications of the scope of moral status are inseparable from justice in a way that cannot be said of the other three principles of Beauchamp and Childress.

To demonstrate this distinction between justice and the other principles further, consider the following historical example (grossly oversimplified for the purposes of this discussion). With the abolition of slavery and the
subsequent civil rights movement, African Americans were endowed with the rights of full citizenship in the United States. Essentially, this shift represented the recognition of the equal moral status of African Americans. In doing so, white Americans affirmed that blacks were deserving of inclusion in the moral community and, therefore, that they should be included in the scope of applicability of the principles of autonomy, beneficence, and nonmaleficence. With that affirmation, black Americans were given the right of self-governance, the right to be treated beneficently, and the right to be protected from harm. In each of these instances, one might plausibly say that whites were able to include blacks within the scope of morality without impacting the ways in which these principles applied to whites. Acknowledging that black persons should not be intentionally harmed does not imply that white persons are less protected. Likewise, determining that African Americans are deserving recipients of beneficent deeds does not mean that white people are less so. Finally, acknowledging that black people are autonomous persons does not lessen the autonomy of any white person. In each case, the principle in question can be extended indefinitely without impacting the members of the existing group. The only difference is the added responsibility to treat the new members according to the laws of morality.

In contrast to the other principles, the inclusion of blacks within the scope of justice precipitated an increase in the resources available to African Americans and a corresponding decrease in resources for whites. Questions of moral scope are first-order questions of justice with very concrete and immediate implications.

**IMPLICATIONS FOR PRINCIPLISM**

As we have already discussed, Beauchamp and Childress have argued in a way that suggests that judgments of moral status are not part of the common morality. Yet the principle of justice—one of their fundamental ethical principles—seems to require an account of moral status if it is to have any substance. How, then, can Beauchamp and Childress include the principle of justice in their system of common morality if they contend that the common morality cannot address issues of moral status and personhood? This is a conundrum that may not have any simple or obvious solution. We suggest four possible modifications to their theory that might salvage its internal consistency, none of which are likely to be satisfactory to Beauchamp and Childress.
1. Make Moral Status Part of the Common Morality

Perhaps the most intuitively appealing solution to the conundrum would be to make moral status part of the conception of justice held in the common morality and reduce the extent to which moral status is allowed to vary over time and between cultures. This seems to be the direction Beauchamp and Childress are headed in the sixth edition of *Principles of Biomedical Ethics*, in which they write:

> Where we are in the common morality is not necessarily where we should be. It may be possible to justify the claim that rules of equal moral consideration ought to be applied to all persons not merely to some groups of persons—and that these rules should themselves be a part of the common morality. This change would be one of the addition of a norm—not one of norm-modification or abandonment of a norm. (2009, p. 391)

The authors are describing a conception of the common morality that would no longer be temporally or culturally variable with respect to scope, because issues of moral status would be incorporated as norms of justice within the common morality. Such a solution would provide a foundation for a robust, substantive principle of justice by defining the group of individuals to which the principle applied.

There is, however, an obvious problem with this approach. There is no evidence to suggest that there is or ever has been any widespread, cross-cultural agreement about the moral status of individuals such that the scope of morality could be construed as a constitutive part of the common morality. Such was the basis of Turner’s objections to the common morality in 2003, and this was the reason for the inclusion of an account of moral change in the revised version of *Principles of Biomedical Ethics* in 2009. Beauchamp and Childress might hope for a future, transculturally shared understanding of moral status, but such hopes do not change the facts. Definitions of moral status simply do vary drastically across time and culture, so the inclusion of norms of moral status in the purportedly universal common morality is implausible.

2. Exclude Justice from the Common Morality

Alternatively, one might consider a second, more dramatic, solution to the conundrum posed by Beauchamp and Childress’s treatment of moral status, justice, and the common morality. If, rather than postulating a state of intercultural agreement on the issue of moral scope, supporters of common morality theory simply were to assume that the scope of
morality always has and always will vary across time and cultures, they
could develop a coherent theory in the absence of any rigid claims about
moral status, but it would require them to significantly restrict the set of
principles encompassed by the common morality.

Since moral status seems to be a pivotal first-order question of justice,
such a system could maintain its internal consistency only if justice were
eliminated from the set of foundational ethical principles in the com-
mon morality. As we have argued above, there is nothing inherent in the
principles of autonomy, beneficence, or nonmaleficence that requires a
specification of moral status for their substantive meaning. Cultures could
freely develop their own specifications of moral scope and apply three
of the four principles to whoever each culture specifies as falling within
the scope of morality without affecting the substantive meaning of these
principles. Such a system of “Principlism without Justice” would also
allow for temporal changes in the scope of the common morality while
insisting of the constancy of its content.

While the elimination of justice from the common morality mitigates
the inconsistencies that arise from varying accounts of moral status, it is
unlikely that Beauchamp and Childress would be willing to accept such a
solution to save their theory. After all, the authors devote an entire chapter
of Principles of Biomedical Ethics to the importance of justice. They ap-
pear committed to developing a theory that is intuitively plausible on the
basis of considered moral judgments (2009, p. 381–387). Any theory of
ethics that could say nothing about issues of justice would hardly meet
these criteria. One need only to look at the intense debate over health care
reform in the United States to see the enormous emphasis that ordinary
people place on issues of distributive justice. Further, a cursory glance at
the history of philosophy will demonstrate the central role that questions
of justice have played in ethics. With this in mind, a theory of the common
morality that failed to include a principle of justice would fail the test of
intuitive plausibility. Therefore, it is highly unlikely that Beauchamp and
Childress (or anyone else for that matter) would be willing to endorse an
ethical theory that had nothing to say about justice.

3. Posit a Foundation for Ethics Other than the Common Morality

This leads one to consider a third possible solution to the conundrum.
When Beauchamp and Childress suggest in the passage cited above that
the common morality is not where it “should be” with respect to ques-
tions of moral status, one might plausibly read this as a suggestion that the
common morality can be improved upon, and that the correct answers to questions of moral status are contained within a yet-to-be-realized ideal common morality. Language such as “should be” does suggest that they are judging the common morality or its culturally variable instantiations against some standard of correctness. Basing such a foundation upon an unrealized ideal justified by its contribution to human flourishing, however sketchily described, does not make it any less foundational. Yet this would also seem to be a move that Beauchamp and Childress would resist on other grounds. To suggest that the common morality can be judged against some other standard and can be improved upon relative to that standard is to suggest that there is some truly objective and correct standard of morality that is only approximated by the common morality. Yet Beauchamp and Childress want to claim that the common morality is the objective morality.  

Positing an objective standard of morality other than the common morality would provide a solution to the conundrum. The common morality could be understood as an approximation of the true and objective morality, making the common morality a useful place from which to begin ethical analysis while also holding that common morality can be mistaken, can be improved upon over time, and can be corrected by ethical analysis and argument. Thus, expansions or contractions in the scope of moral standing would be judged as strengthening or weakening the common morality’s account of justice. By positing such a standard of ethics against which to judge the common morality, however, one is implying that there is some sort of foundation for ethics other than the common morality, and this raises the question of how such a foundation could be known or justified. The history of philosophy is replete with such accounts—utilitarianism, moral sentiment theory, natural law, and Kantianism, among others. Such foundationalist approaches to ethics, however, are exactly what Beauchamp and Childress set out to avoid by turning to the common morality as the source of moral objectivity. They consider theoretical critiques of the common morality to be “the cart pulling the horse” (2009, p. 388).

This proposed solution to the conundrum thus leads only to another conundrum for Beauchamp and Childress. Moral change cannot be accounted for by suggesting that the universal common morality is gradually improving its ability to correctly designate the scope of morality without positing some external moral foundation by which to make such normative judgments about the common morality. Yet Beauchamp and Childress
seem to reject the very sort of foundationalist approach to ethics that such judgments would require. They cannot have it both ways. Their language about “improvement” with respect to moral status implies a source of morality that they elsewhere reject. While this move might help shore up their contention that common morality is universal, their rejection of the idea that there is a foundation by which to judge that the common morality is improving renders a theory of improvement in the common morality inconsistent with central aspects of their overall theory. Thus, this move is really not open to them unless they are prepared to accept the idea that the common morality is only an approximation of an otherwise justified source of moral truth.

4. Give up on Claims of the Universality and Objectivity of the Common Morality

A fourth alternative would also involve a reevaluation of the very nature of the common morality. Beauchamp and Childress hold that the common morality represents a universal set of beliefs shared by all morally committed individuals. Putting aside the question of what the authors mean by morally serious individuals, it may be the case that their claims of true universality are just too strong. After all, the greatest source of criticism for the authors’ position is its apparent inconsistency with the history of ethics and the variability in moral customs between cultures. Critics have found it implausible to say that, in spite of such variability, every human being now and throughout history has been committed to the same general set of moral norms.

Rather than defend a position of true universality, the authors might adopt the position that, while there might not be a single universal morality, there does seem to be a great deal of consensus about core ethical issues. Furthermore, such consensus seems to increase when one moves from considering all human beings to considering individual cultures. Such consensus, even if less than universal, provides a reasonable starting point for ethical decision making in the absence of a sufficiently validated comprehensive theory. Therefore, the authors might argue that, while judgments from observed consensus might be less than perfect, they are the best we have for making practical decisions in ethically charged disciplines like medicine and biomedical research. The objective of *Principles of Biomedical Ethics* is to provide a framework for understanding morality in medicine and research. It seems foolish to endorse a controversial,
problematic ethical theory that detracts from an otherwise powerful tool for approaching ethical issues in these disciplines.\(^4\)

By weakening their claims of universality, the authors could focus on points of consensus within the particular culture of the contemporary Western world, even if this consensus were less than universal within Western culture or otherwise. For instance, the authors could describe what they perceive to be core ethical principles in Western culture and develop a system of ethical decision making for Western medical practice.\(^5\) This is, after all, what they seem to have done in *Principles of Biomedical Ethics*. The key difference would be a concession that in another time or place their system might not have the same degree of support, and that even within the Western world there remain serious disagreements about such important questions as moral status.

Before moving on to discuss how this approach relates to issues of justice and moral status, something needs to be said about whether this approach represents an endorsement of moral relativism. The answer is that it both does and does not. It does in the sense that it acknowledges that there is variability in moral beliefs, within cultures, between cultures, and over historical time. However, this approach does not endorse the view that such variability implies relativism in a theoretical sense. On this view, one might reasonably hold out for the possibility that all or a subset of these diverse ethical beliefs are wrong, and so one should remain open to the possibility that there is some rational, justifiable, foundational set of norms by which to make such judgments. This approach, however, could remain agnostic about such a foundation, suggesting only that, in the absence of a universally accepted ethical theory, zones of consensus about ethical issues represent the best available starting place for practical decision making in ethics. The fact of the matter is that, even if no such theory exists, ethically charged issues will continue to arise in medicine and biomedical research, and perceived areas of consensus may be the best place from which a culture can start in trying to resolve them.

We suspect that Beauchamp and Childress might not want to give up their defense of the universality of the common morality, but if they did so they could resolve the conundrum raised by the incompatibility of their claims about the common morality, justice, moral status, and moral change. Such a non-universal common morality would be capable of supporting a substantive principle of justice while acknowledging widespread variability on issues of moral status. On this view, principlism would have many cultural variations based on the consensus achievable within individual
cultures. Concrete judgments about moral status could support claims about justice within comprehensive systems of ethical decision making particular to the cultural instantiations of the common morality. Within Western culture, in the face of disagreement over questions of moral status as they relate to embryos, individuals in a persistent vegetative state, and other controversial cases, a functional account of justice could be developed regarding adult human beings possessed of at least some basic threshold level of cognitive capacity. Admittedly, this would be something of a minimalist theory of justice, its scope being limited to those that a particular culture agreed were deserving of moral status. It would thus still be open to the charge we have made about Beauchamp and Childress's account—that it failed to give a thorough answer to the question of moral status as a central first-order question of justice, and therefore would not be capable of supporting a definitive principle of justice. Nonetheless, it would go further than Beauchamp and Childress in that it would give some answer to the question of moral status and thus could support a substantive principle of justice, rather than excluding all questions of moral status from the common morality such that any account of justice could only be formal. Certainly, there would be those who would argue in favor of expanding the group, but even such a limited, local account of moral status provides a foundation for a substantive principle of justice that cannot be achieved when the common morality is taken to include all cultures at all times.

The tradeoff would be that proponents of the common morality would no longer be endorsing a comprehensive morality that applies across cultural and temporal boundaries, and Beauchamp and Childress might not endorse such a weakening of their claims about universality. By adopting such a move they would be open to charges of relativism and remain susceptible to claims that their principle of justice is tepid, given its limited ability to address issues of moral status. Perhaps, however, they would find this approach more palatable than the alternatives of either considering the common morality a useful approximation of some other justifiable and objectively true foundational morality or the wholesale exclusion of a substantive account of justice from the common morality. Even a non-universal common morality principism might be very valuable in the context of clinical practice and biomedical research within particular cultures, and this, after all, is what many would argue that the Principles of Biomedical Ethics has provided for twenty-first century North America.
CONCLUSION

A form of principlism that depends upon a universal common morality cannot support a robust, substantive principle of justice if it accounts for moral change and cultural variability by positing that questions of moral status are second-order questions that lie outside the common morality, varying from culture to culture and evolving over time. The alternatives, none of which we suspect would be acceptable to common morality principlists, would be to deny that there is variability in morality, exclude justice as a principle within the common morality, regard the common morality as a useful approximation of an otherwise justifiable and universal foundational morality, or regard the common morality as culturally relative. If none of these alternatives are acceptable and there is no other way to resolve the conundrum we have described, one is left to question just how much a common morality principlism can contribute to ethics in general or to biomedical ethics in particular.

NOTES

1. All citations in this article refer to the sixth edition (2009). Since the writing of this article, Beauchamp and Childress have published a seventh edition (2013). To our reading, these authors have not made changes in the new edition that materially affect our interpretation of their theory.

2. The case of autonomy may seem counterintuitive, because with the prohibition of slavery, whites lost their power over the lives of blacks. However, this is a misuse of the concept of autonomy, which deals strictly with self-governance and not with control of others. Therefore, while African Americans certainly gained autonomy during this time, there was no corresponding reduction of autonomy among whites.

3. For a detailed discussion of the validity of “human flourishing” as a standard for evaluating moral reform, see K. A. Wallace’s 2009 article “Common Morality and Moral Reform.”

4. This approach echoes a critique by John D. Arras, in which he states that “our attempts at moral justification can most likely get along just fine without an appeal to ultimate, unreliable foundations.” He argues that the immutability of the common morality affords Beauchamp and Childress no justificatory advantage over the Rawlsian system of reflective equilibrium from a foundation of considered moral judgments. Further, Arras argues that a fixed common morality actually detracts from the justificatory power of Beauchamp and Childress’s account by supporting conflicting lines of specification from the same ultimate moral norms (Arras 2009).
5. For an account of the combined role of the common morality, cultural norms, and U.S. law in shaping policy decisions in bioethics, see Ronald A. Lindsay’s 2009 article, “Bioethics Policies and the Compass of Common Morality.”

REFERENCES


