When to Ask, "What if Everyone Did That?"

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WHEN TO ASK,  
"WHAT IF EVERYONE DID THAT?"

People are often moved to ask, of themselves and of others, "What would happen if everyone else did that?", referring either to an action the agent contemplates doing or to one that the person being criti- 
cized has already done. People may be moved by the "everyone else question" (EEQ) and they may object to others' not asking it, but 
what exactly is its moral relevance? Recent answers to this question 
about the EEQ range from the claim that it is totally irrelevant to 
the position that not to ask it involves one in logical inconsistency. I 
hope to show that asking the EEQ is morally relevant only in certain 
special cases, and that its apparent moral relevance in general is due 
to easily isolable misunderstandings. In particular, it will be seen that 
asking the EEQ is irrelevant to private moral deliberation, even with 
regard to what I call "cumulative actions," and is relevant only to 
public deliberation, i.e., to considerations of social policy. And even 
there, I claim, requiring agents to ask the EEQ is appropriate only in 
a special type of case.

Assumptions and Definitions

To facilitate the presentation of my position, I will make explicit 
some assumptions, ones that strike me as fairly noncontroversial. 
Needless to say, my position will suffer to the extent that any of these 
assumptions is mistaken. However, insofar as my position requires 
them, making them explicit indicates what may have to be denied in 
order to support the EEQ. In addition to stating these assumptions, 
I will define certain expressions that will come in handy later.

I make the following ethical assumptions:

(1) A person has no right to benefit himself (or another, for that 
matter) at the expense of someone else, just because the 
benefit exceeds the expense—special reasons are required to 
justify this. I assume that this principle is not traceable to 
the moral relevance of asking the EEQ, but has some other 
basis. Indeed, the position to be taken here suggests that to 
require people to ask the EEQ is a mistaken means of apply-
ing this principle.

(2) This ethical maxim, though vague, seems reasonable: When 
in doubt, play it safe. Roughly, this requires a person to 
avoid needless risks and to take suitable precautions where
the welfare of others is involved. So, for example, one is not justified in taking even a slightly risky (to others) course of action just to avoid a little personal inconvenience.

(3) An adequate moral theory does not entail that an action is right only if it is obligatory. In particular, such a theory allows for indifferent action (neither good to do nor bad to do) and for supererogatory action (good to do but not bad not to do). Thus, I exclude, for example, the classical form of utilitarianism that requires an agent always to do what is best on the whole. It may be contrasted with "negative utilitarianism," which does not recognize the same obligation to produce good as that to prevent evil (or at least to avoid producing evil).

(4) Agreements and commitments can, and generally do, create obligations that can be accounted for either on simple utilitarian grounds or on some other grounds that do not presuppose the moral relevance of asking the EEQ. I take it that part of the justification is that such commitments create, and are intended to create, expectations of their fulfillment. As David Lyons argues, such obligations need not be, and perhaps cannot be, justified in virtue of falling under practices, for the obligation is not to the moral community but to the promisee.¹ It is theoretically irrelevant that the confidence of the promisee may in fact depend on how well the practice is flourishing. To Lyons' position I would add that it is sufficient that the promiser and the promisee mutually believe² that the promiser intends to create an expectation of fulfillment in the promisee and that the expectation is warranted and deserving of respect.

(5) I assume that justice on the part of an individual is not definable in terms of asking the EEQ. That is, if justice requires asking the EEQ, this has to be argued for, by deriving it from an independently formulated conception of justice.


² Mutual belief is more than merely sharing a belief. Two people mutually believe something only if each believes it, each believes the other believes it, and each believes the other believes that he (the first) believes it. The notion of mutual belief is meant to capture the idea of intersubjectivity. It is explained in and is central to my "Analytic Social Philosophy — Basic Concepts," *Journal for the Theory of Social Behaviour*, 5 (1975), pp. 189-214.
Clearly, without this assumption there is no reason to inquire into the moral relevance of the EEQ—it would follow from the moral relevance of justice.

These assumptions are listed in the order in which they will be cited later, although the fifth underlies the entire paper. As will become evident, all of these assumptions are being made with the idea of giving the EEQ a run for its money without conflating issues, bringing in extraneous considerations, or begging important questions. At the same time, they reflect certain limitations of my position, insofar as it requires them.

The following definitions will prove useful:

*private moral deliberation:* deliberation by an agent on the morality of his alternatives of action, such that neither his deliberations nor his subsequent action materially affect the deliberations or subsequent actions of others in otherwise similar situations. Moreover, he is not faced with the question of obeying the law or otherwise complying with public policy. Thus, in private moral deliberation, a person is deciding only for himself and is doing so outside of the context of public policy.

*morally conscientious agent:* a person who tries to be moral and to act morally. Unlike Plato, I take these phrases to be unredudant, but I do not assume anything about the correctness of the moral principles applied by the agent.

*moral community:* a community of people who mutually believe themselves to be morally conscientious agents.

*asking the EEQ:* in the case of one's own prospective action, not only raising the EEQ but conscientiously answering it and acting on the answer.

*collective good:* a good, such as clean air or orderly traffic, that virtually everyone in a community enjoys if anyone does.

*collective evil:* an evil, such as filthy air or a depression, from which virtually everyone suffers if anyone does.

*cumulative action:* an action that contributes toward the production of a collective good or the prevention of a collective evil. In general, collective goods are produced and collective evils prevented only if sufficiently many people perform a certain cumulative action (or do their part where diverse types of action are necessary).

*distributive action:* a noncumulative action.
Bad Reasons for the EEQ

The relevance of asking the EEQ has been supported by reasons that are as bad or misplaced as they are popular. These should not be held against the EEQ, for which deeper reasons of relevance can be given. But because of their natural appeal, these bad reasons should be mentioned and then dispensed with.

It is sometimes thought that a person who does not ask the EEQ and performs an action which, though not bad in itself, would have disastrous results if people generally did it, is involved in a logical contradiction. The implication here is that the relevance of the EEQ is logical. Now both proponents and critics of this position realize that the answer to the EEQ in a particular case depends on how the agent is to describe the action whose universalization is imagined. I accept Lyons’ position that actions with different effects are relevantly different for purposes of description for generalization. In particular, it matters whether or not a given action has what he calls “threshold-related” effects. Moreover, it matters, where A is the act in question, whether or not others in fact will do A. As Lyons argues, where \( \overline{C} \) is the condition that A is not generally performed, it is descriptively relevant to construe the action in question as \( AC \), rather than as A simpliciter, thereby avoiding the air of paradox in the question, “What would happen if everyone did A when in fact not everyone does A?” Instead, the proper question is, “What would happen if everyone who had occasion to do \( AC \) would do \( AC \)” It follows that the generalization argument cannot be validated solely on logical grounds, contrary to Marcus Singer’s claim to that effect, that “if this reasoning [i.e., generalizing A rather than \( AC \)] would justify any one such action, it would justify every such action, and this is self-contradictory.” It remains to be seen if the relevance of asking the EEQ can be established on other, nonlogical grounds.

It is no objection that the above argument presupposes a theoretical ethical basis for determining which act-descriptions are morally relevant and which are not, and therefore that it begs the question. On the contrary, the issue of relevant description arises only where ethical generalization (invoking the EEQ) is involved. An ethical view not requiring the EEQ does not face the threat of inconsistency posed by generalizing over different descriptions.

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A second common reason for requiring the EEQ is reflected in people's resentment of those who do not ask the EEQ. People who resent someone who benefits himself at others' expense might ask the person in an accusatory way, "What would happen if everyone did that?" The idea, presumably, is to get the person to see the error of his ways by envisaging the consequences of everybody's doing what he did. However, it does not follow that his action is wrong because everybody's doing it would be disastrous. His action may very well be wrong in itself—the disaster of everyone's doing it could simply be the sum total of each individual misdeed. By assumption (1) above, benefitting oneself (or another, for that matter) at others' expense is prima facie wrong in itself, not because of its generalization. So while there might be pedagogical value in getting such a wrongdoer to imagine everyone's doing his misdeed, the theoretical relevance of asking the EEQ has not been shown.

In any case, when examining the moral relevance of asking the EEQ, we should factor out the motive of selfishness, since we have assumed (1) independently of the EEQ issue that this is generally wrong. The real issue is whether a morally conscientious agent is obliged to ask the EEQ. It remains to be seen if evading the EEQ is ipso facto to take advantage of others or only seems to be to those who resent it. Here we must distinguish between benefitting at others' expense and merely taking advantage of the fact that others are not doing what one is contemplating or do ask the EEQ in their moral deliberations. Regarding the latter, a person who conscientiously waives the EEQ on grounds of moral irrelevance cannot consistently deny others the right to do so. Naturally, he would have to recognize that if others in fact did not ask the EEQ, that would make a difference to his own moral deliberations. However, that he is, as things are, one of few who conscientiously waive the EEQ, i.e., not for selfish reasons, does not mean that he is benefitting himself at others' expense.

A third misplaced reason for claiming the relevance of asking the EEQ is the idea that if people did not ask the EEQ, there would be a deleterious effect on moral life in general. This reason may seem question-begging since in fact not everyone does conscientiously waive the EEQ, but the fear here is that general instability would result if people ignored the EEQ. As we will see later, there may be something to this where social policy and participation in social practices are concerned, but it has no weight for private moral deliberation, since by definition what one person decides upon does not
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materially affect what others do. In ruling out this reason, I do not mean to beg the question of the relevance of what Broad called "false hypotheses in ethics," and so I now turn to that question.

The Moral Irrelevance of the EEQ in Private Deliberation

I take it that the point of the question, "What would happen if everyone did that?", though the question is hypothetical, has something to do with the cumulative effect of everyone's action. It is therefore implicated that, when the answer to the EEQ is negative, the action in question is wrong not in itself but only as one of many such actions whose joint performance had bad effects.\(^5\) Therefore, the EEQ is irrelevant to distributive actions—if a distributive action is wrong, it is wrong in itself and for what it alone results in, rather than wrong in conjunction with other such actions. It is therefore wrong on grounds distinct from the alleged ones provided by asking the EEQ. If relevant at all, the EEQ is relevant only to cumulative actions, such as walking on the grass, breaking traffic laws, polluting the air, evading taxes, supporting a corrupt regime, and talking endlessly on the telephone.

Now is there any moral relevance to asking the EEQ? Whatever the disaster that would result if everyone consumed excess fuel, say, my doing so causally has nothing to do with anyone, let alone everyone, else's following suit. So why should I ask the EEQ? Either not everyone is doing or will do as I contemplate doing, or they are doing or will do it anyway. Unless I were in the public eye so that I would be an example for others or unless my action otherwise causally contributed to what others do, it seems that asking the EEQ is pointless, other than as idle speculation. I am not legislating for all mankind but am concerned only with deciding on my action. So why can I not evaluate it on its own merits? If I am justified in believing that others will not do likewise or will do likewise anyway (i.e., not because of what I do), and if I have no reason to believe that my action will be the straw that breaks the camel's back, why can I not perform my contemplated action in good conscience, provided that it does not have predominantly bad effects in itself? I certainly will not be

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\(^6\) This contrast is reflected in the distinction between simple and general utilitarianism, as defined by Lyons, for example, op. cit., pp. 2ff. His powerful argument in chapter III for the extensional equivalence of the two is reflected in the present section.
tricked into asking myself the following instance of the EEQ, "What would happen if everyone else did not ask the EEQ?"

Now in refusing to ask the EEQ in private moral deliberation, to be morally conscientious I must be careful how I weigh the pros and cons of my contemplated action. Not only must my action have negligible influence on what everyone else does, it must not appreciably detract from what they do. Two cases must be distinguished: (a) The collective good (or evil) is a matter of degree. In this case I must take into account the incremental effect of my action. If a great many others are doing the cumulative action, my choice will have proportionally little effect in comparison to all of theirs put together. Nevertheless, the absolute effect of my joining in, spread across all the beneficiaries of the collective good, may outweigh the positive effects (to me or to only a few) of my contemplated action. (b) The collective good (or evil) is an all-or-nothing affair. In this case, I must have good reason to believe that either enough will perform the cumulative action anyway or too few will perform it to achieve the collective good (or prevent the evil). Otherwise, my action may be decisive, in which case I had better perform the cumulative action myself.  

As long as I am not benefitting myself or someone else at others' expense, it seems not only right but responsible of me to refrain from asking the EEQ. If others are in fact acting cumulatively to produce a collective good (or to prevent a collective evil) and my not doing likewise does not detract appreciably from this effort, it seems that I have no moral obligation to do likewise. I can act responsibly by doing something else. And if others are not in fact so acting, to act on the basis of asking the EEQ seems simply pointless (unless there is a point to being self-righteous or unless, contrary to hypothesis, I were trying to set an example).

We saw in the previous section that an agent in private moral deliberation who conscientiously refuses to ask the EEQ is not (1) involved in a logical inconsistency, (2) exploiting others, or (3) posing a threat to moral life in general. To be sure, he is taking advantage of, i.e., taking into account, the fact that enough others are not doing A

7 Lyons' argument (op. cit., Chapter III) that general utilitarianism is extensionally equivalent to simple utilitarianism is applicable to either of these cases. His argument shows how considerations of causal linearity and threshold effects (of what I call cumulative actions) determine descriptions of action appropriate for utilitarian generalization. Cases (a) and (b) involve actions whose relevant description is determined differently.
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(condition $\bar{C}$) or are doing $A$ anyway (call this condition "$C$""). In this way the action he justifies, the action anyone could rightfully perform in his situation, is not $A$ but $A\bar{C}$. We have seen in the present section that a conscientious moral agent has no reason not to take relevant facts, $\bar{C}$ in particular, into account. And there is no apparent reason why he should take into account the undesirability of general performance of $A$.

It might be wondered here, if $AC$ and $A\bar{C}$ can both be justified, cannot $A$ *simpliciter* be justified? No, because conditions $C$ and $\bar{C}$ are not exhaustive. Condition $C$ ($C$) holds only if enough others are (not) doing $A$. Between the extremes of sufficiently many ($C$) and sufficiently few ($\bar{C}$) doing $A$ to justify doing $A$ oneself is an intermediate range in which it is wrong for one to do $A$. Unlike at the extremes, when the number of people doing $A$ falls within this intermediate range, one's doing $A$ oneself produces a net negative effect. If there were no such intermediate range, then $A$ would be *right simpliciter*, since no matter how many people did $A$, its cumulative effect on all (a collective evil) would always be outweighed by its distributive benefits to each. Of course, if there is such an intermediate range but an agent is unsure whether the number of people doing $A$ falls within it, by assumption (2) he should play it safe and not do $A$.

Now there is a special type of case that may seem to pose a problem for the position presented here, the case of the free rider. Suppose $A$ is an alternative to $A'$, the general performance of which yields a collective good or prevents a collective evil. Since general but not universal performance of $A'$ is necessary to produce such a result, the agent's doing $A$ does not hurt the common cause. Nevertheless, he may be resented for not doing what others regard as his part, and surely he will not be excused for his confidence that others would do $A'$ anyway. Is this resentment and this refusal to excuse justified, even where the agent is, as we are assuming, morally conscientious? To answer this question, we should follow assumption (3) made at the outset and distinguish two cases, that in which the general performance of $A'$ yields a collective good, and that in which it prevents a collective evil. The first may be illustrated by the case of all but one person in a neighborhood chipping in to landscape the area, the second by the case of all but one driver using a smog-control

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8 Formally, this is not really a special case. $A'$ could simply be not-$A$, the general "performance" of which prevents the collective evil that would result from the general performance of $A$. 
device to prevent air pollution. The reason for distinguishing these
two cases is that it might be claimed that only in the second, involving
the prevention of a collective evil, is there a collective obligation
(whatever that means) to do A'. Our agent is getting a free ride in
the first case, but in the second he is doing worse—not taking part in
a necessary collective sacrifice.

In the first case, there seems to be no relevant difference from
that in which a person receives an unsolicited gift—he could do some-
ting in return, but he has no such obligation. In the present case,
the "gift" is from all of his neighbors rather than from one person.
Otherwise, there is no difference. Only if we assume that the neigh-
borhood has an antecedent agreement or understanding, e.g., that
majority rule determines everyone's obligations, is there a relevant
difference. But then we are no longer talking about private moral
deliberation (see the next section).

As for the case of a collective obligation to prevent a collective
evil, apart from the qualification made in the previous case about a
prior agreement, there is the question of how our "conscientious"
agent can sit back and let everyone else fulfill the obligation, while
he gets to drive faster and save money on gas by not using a smog-
control device. In our example, his abstention does not increase the
others' burden at all or permit more than an iota of the collective
evil. So it cannot be said that he is benefitting at others' expense,
since they would be no better off if he did his part. Whatever their
resentment, it seems unjustified.

Nevertheless, they may have a legitimate fear: what if everyone
assumed that nearly everyone else did his part and therefore did not
do his own part? Obviously, if generally made, this assumption would
turn out to be wrong. However, such is not in fact the case and, more-
over, we assumed that our agent does not serve as an example whose
following would indeed lead to disaster. The point, then, is that public
acknowledgment of his moral position (waiving the EEQ) could
threaten moral chaos in the community. In general, there is no way
for the members of a community to reach a coherent agreement per-
mitting abstention from a necessary collective action on the grounds
that enough others will do it. There would never be such grounds.

The above circumstances would create a situation of what might
be called "cognitive instability." At any given time, assuming parity of
information and equal rationality, nobody has any more or less
reason than anyone else to believe that enough people will use the
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device. But how much of a reason is it? If everyone publicly accepts
the argument that no one has the right not to do his part unless he
has good reason to believe that enough others will do theirs, no one
will have good reason unless everyone does. But if everyone does,
then everyone has the right not to do his part, in which case no one
has good reason after all. The point is that what anyone can think,
everyone can think, in which case everyone is wrong. But everyone
could realize that. Moreover, if someone were to think that everyone
else could reason that far, he might suppose that he could think one
step further and make an exception of himself after all, but of course
anyone else could do the same, so therefore he cannot.

The cognitive instability that characterizes the situation just
described certainly makes a good case for the relevance of asking the
EEQ—at least an agent could arrive at a determinate course of action.
However, there is no reason to think that this could realistically exist
in private moral deliberation. For cognitive instability requires
mutual recognition of the need for action but lack of communication
or specific procedures for determining who is to do what. If this
recognition is not mutual, there is likely not to be cognitive instability
but simply inaction. That is, if each recognizes the need for general
performance of some action but does not realize that others recognize
this (or that others realize that others recognize this), he has no
reason to perform the action himself. However, if this recognition is
mutual, then each can take into account others' deliberations, who in
turn can take into account others' deliberations, and so on, thereby
threatening cognitive instability. However, since the situation is now
one of interdependent decision, it no longer involves private moral
deliberation. Realistically, then, cognitive instability arises only in
public or community situations, where practices or policies are in-
volved. In these cases, to which we now turn, people's decision-
making is not independent, as we have assumed so far.

The EEQ and Public Policy

We have discussed the relevance of asking the EEQ in situations
of private moral deliberation, where each person has to decide inde-
dependently what he is to do. Although any and all may take into
account what everyone else is likely to do, each person decides for
himself; each person's action is the result of an independent decision.
But what about the case of public moral deliberation, where public
policy and rules for individual action are at issue, where the object
of decision is what everyone is to do? Here there is not a distinct
decision for what each is to do, but one general decision for what everyone is to do. It does not matter (for our purposes) whether the decision is made by a moral despot or by everyone, as in a participatory democracy. In either case everyone's action (or at least the rules governing it) is to be decided.

Now while some proponents of the EEQ fancy that a private moral agent is implicitly legislating for all mankind, here we have a situation where legislation, if not for all mankind, at least for the group in question is in fact at issue. Each action is not decided independently, but one decision is made for all. Assuming that everyone is to be committed to that decision (thereby ignoring questions of political obligation and civil disobedience), we must consider what must go into it. In particular, are individuals who deliberate on their own actions to be allowed to waive the EEQ? If not, why not? If so, then what import do the rules have?

In "Two Concepts of Rules," John Rawls distinguishes between justifying a practice and justifying a particular action. He argues that there can be utilitarian advantages to a practice that denies agents the right to justify particular actions by general appeal to the (utilitarian) principle that justifies the practice, e.g., "that the future may be tied down and plans coordinated in advance." One of the reasons for any practice "is that in many areas of conduct each person's deciding what to do on utilitarian grounds case by case leads to confusion, and that the attempt to coordinate behavior by trying to foresee how others will act is bound to fail." Unfortunately, Rawls's position is irrelevantly complicated and weakened by his reliance on the idea that "the rules of practices are logically prior to the particular cases. This is so because there cannot be a particular case of an action falling under a rule of a practice unless there is the practice." This statement can be interpreted so as to be trivially and uninterestingly true—obviously an action cannot fall under the rule of a practice if there is no practice—but the question is whether the action can be relevantly described without reference to the practice. I point out elsewhere that this is impossible only if the action is conventional and argue that Rawls mistakenly conflates rules and conventions, thereby excluding the case of independently describable actions that fall under a practice. As a result, Rawls mistakenly relies, it seems to me needlessly, on the idea that a person who acts on general

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9 Philosophical Review, LXIV (1955), pp. 3-32. The following quotations appear on pp. 16, 24, 25 and 17 respectively.

utilitarian considerations while abiding by the practice makes a logical error, since to do what he thinks he is doing precludes such considerations. So if Rawls is right that "the point of having the practice would be lost if the practice did allow this excuse," he is right for the wrong reason. His two concepts of rules (practice and summary) cut across the distinction between rules and conventions; the distinction between justifying a practice and justifying a particular action can be drawn even without bringing in conventional actions. Our problem is to judge the moral relevance of this distinction even in cases of such obviously nonconventional actions as walking on the grass and using smog-control devices, quite apart from such obviously conventional actions as paying and voting.

Rawls's restriction on the appeal to the utilitarian principle in particular cases amounts in part to requiring agents to ask the EEQ. Now does this restriction serve to minimize confusion and aid coordination? And is this the only plausible rationale for justifying a practice that so restricts private moral deliberation? Rawls gives no evidence for the claim that confusion would result if agents could use the utilitarian principle unrestrictedly (i.e., not ask the EEQ). This claim surely does not follow from the fact that confusion would result if agents were permitted to do anything they want (what some people call "anarchy"). This, I take it, is why most people believe in the so-called "rule of law," but it does not support Rawls's claim. His claim is not that people cannot be trusted, that they are not morally conscientious, but that even if they were, confusion would still result from unrestricted license to deliberate on full utilitarian considerations. If they all used the same set of principles and if it were common knowledge how these principles were to be applied, why should confusion result? We can imagine, for example, that everyone goes through a training and testing program in practical judgment, so that moral decisions become as uniform as practicable, given the complexities and novelties of everyday experience.11

It seems to me that Rawls's claim is defensible only in the case of a coordination situation in which (a) general but not universal performance of A is required, (b) each person's decision is based on what he expects others to do, and (c) there is cognitive symmetry, i.e., nobody knows anything everyone else does not know about

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11 Law students are well aware that these complexities and novelties make difficult the interpretation of any set of rules, however detailed. That includes rules of the sort Rawls wants, ones that restrict utilitarian judgment. But surely Rawls's claim needs a better defense than this.
matters relevant to deciding what to do. In other words, in a situation of interdependent decision, where each person decides partly on the basis of what he expects others to decide, who in turn decide partly on the basis of what they expect others to decide, everyone’s decision is indeterminate unless there is some “obviously obvious” basis for arriving at a convergent decision.\textsuperscript{12} Without some such cognitive focal point, people are reduced to random guessing. Now as we saw in cases of cognitive instability, where such a focal point is lacking, asking the EEQ becomes a natural means for creating convergence. Though the EEQ is hypothetical in character, asking it enables one to be on the safe side (as required by our assumption (2)) on matters of social import, and one can reasonably suppose that either everyone or no one will ask the EEQ (assuming, for the sake of argument, uniform training in and conscientious execution of moral judgment). If it is better for everyone to do A than for no one to, then everyone, recognizing everyone else’s identical predicament, must decide to do A. No one has any reason to decide not to that anyone else does not have; hence no one has that reason.

So I conclude that rules restricting full private moral deliberation and requiring people to ask the EEQ are justified only in cases where, assuming the agents to be morally conscientious and to be in consensus on principles, (a) general but not uniform performance of A is required, (b) decision-making is interdependent, and (c) there is cognitive symmetry. Without condition (a), i.e., in a situation in which uniform performance of A is required, the question of the relevance of the EEQ does not arise, since it is wrong to ruin things for everyone. Condition (b), in conjunction with (a), entails that a cumulative action is involved in the decision. And condition (c) specifies what would make for indeterminacy of decision without asking the EEQ. For the reasons given above, asking the EEQ makes one’s decision determinate in this situation.

Where it is required that A be generally, but not universally performed, we have seen that requiring agents to ask the EEQ is necessary when the above three conditions are present. For in that case there is no nonarbitrary way to specify who has an obligation to do A and who does not. In real life, of course, there may be relevant differences between agents, primarily as regards their positions, responsibilities, and capacities, that would justify exempting some. Otherwise, procedures of some sort, e.g., a lottery, could be used to

determine who gets exempted from the obligation to do A. One can imagine further that in a community where there are many different types of action each of which requires general but not universal performance, a system of just distribution of obligations could be set up to guarantee that the necessary actions be performed, but only as necessary. Of course, it is likely that the cost of instituting such procedures would offset the gains of not requiring universal performance. Lacking such procedures, however, there would be no non-arbitrary way for the rules to exempt some from doing the necessary actions. Where procedures and adequate communication are lacking, asking the EEQ is the obvious solution to the coordination problem of achieving a determinate course of action.\(^\text{13}\)

Keep in mind that the relevance of the EEQ, as we have attempted to isolate it, arises neither from people's selfishness nor from demands for fairness, but from cognitive instability. However, we have seen that this instability exists only under certain conditions. Under these conditions and assuming that the agents are morally conscientious, there is no determinate basis for anyone to make a decision. But there is such a basis when these conditions do not hold, in which case there is no reason to impose asking the EEQ. In practice, however, the charitable assumption that people are morally conscientious is rather implausible; here it makes good sense to limit their discretion by requiring asking the EEQ and permitting only selected excuses and defenses for not performing the required actions. Moreover, it is not implausible to suppose that people could mutually acknowledge the legitimacy of such a system of rules, since they could recognize that it is in their respective self-interests to do, so, even if each has to give up the defense that he is morally conscientious, or more so than almost everyone else. An everyday example of this is in the field of traffic control. Most people resent having to wait for a light to turn green when there is obviously no cross traffic, but few trust others (or their driving) enough to make "obviously

\(^{13}\) The only situation I can think of here in which A should generally be done but not everyone is obligated to do it is the following, farfetched though it be: it is mutually recognized that \(n\)% of a large group should do A if a certain collective good is to be achieved; since there is no formal procedure to decide who, each person (assumed to be morally conscientious) uses a random method that gives him an \(n\)% chance of having to do A. If everyone can expect everyone to do this and if everyone does, the required \(n\)% will end up doing A.
no cross traffic" an exempting condition in the law requiring one to
wait for the light to turn green.

A further type of situation is worth mentioning. In between the
case of real people with their selfishness, lack of objectivity, etc.,
and the case of morally conscientious people who agree on principles
is that of morally conscientious people who disagree on principles.
Here it seems reasonable for social purposes to try to reach a com-
promise on moral principles. Unless the principles of some prohibit
making such a compromise, presumably some set of rules would be
mutually agreeable and could be agreed upon.

The EEQ and Agreements

Is the relevance of asking the EEQ restricted to the special case
in which, as we saw, people's asking the EEQ renders moral deci-
sions determinate in what would otherwise be a situation of cognitive
instability? It might be suggested that social rules designed to pro-
duce collective good constitute an implicit agreement, that the agree-
ment creates an obligation to abide by it, and that it must require
people to ask the EEQ if it is to be effective. In dealing with this
suggestion, we assume (initial assumption (4)) that the obligation to
keep agreements can be accounted for independently of a position on
the relevance of the EEQ. Also, for simplicity, we are considering
cooperative schemes designed to produce collective goods rather than
those for preventing collective evils for the following reason: as a
corollary of our initial assumption (3), there is not in general the
obligation to produce good that there is to prevent evil; hence an
agreement designed to prevent a collective evil may be morally
redundant (i.e., cannot create obligations that already exist), while
an agreement to produce a collective good may be assumed to create
obligations.

I take it that an agreement or contract is distinct from a pro-
mise in that both parties have an obligation to fulfill. Moreover, the
obligation of each is conditional upon the fulfillment of the other's
obligation. That is, each agrees to do his part on condition that the
other does his. Now as far as the agreement to set up social rules is
concerned, the point is not to guarantee moral behavior, for it is not
being assumed that one should be moral only if others are. The agree-
ment is not to act morally on condition that everyone else does.
Rather, the point is to produce a collective good, which requires the
general though not universal performance of some cumulative action.
So the idea of tracing the relevance of the EEQ to the obligation to
keep agreements is supported by the fact that such cumulative actions are not obligatory individually but only (if at all) if enough others are performing the action. Since in the absence of a basis for mutual expectations that enough others will perform such a cumulative action, there is no obligation to do it on one's own, an agreement is designed to create this mutual expectation in virtue of a mutually undertaken obligation—an obligation that is mutually conditional. Once it is undertaken, people are entitled to expect each other to do their part. For the agreement to be effective, it must require the agents to ask the EEQ. Otherwise, there is the cognitive instability that we have seen deprives agents of a determinate basis for decision when the question of compliance arises. The point of undertaking the mutual obligation is to publicly identify and to justify pursuing the collective good through the general performance of an action that is individually pointless. That is, the action made obligatory is one which individually invites the obverse of the EEQ, "Why should I do this unless everyone else does?" There is no reason to do it unless enough others do. The problem that making an agreement solves is not that of general distrust but that of absence of mutual expectation that the desired cumulative action will be generally performed. Once the agreement is made, however, people do have reason to perform the action—and insufficient reason not to.

Once the agreement is made, no one can make an exception of himself unless he has reason to believe that almost everyone else will not. But without special distinctions between agents and without procedures for economically distributing the burdens, either everyone or no one has reason to believe that most everyone else will do his part. Cognitive one-upmanship only leads to instability and ultimately to the desired action's not being generally performed. Therefore, each party to the agreement has an obligation not to engage in one-upmanship.

Indeed, that is the underlying reason why the mutually conditional obligation to keep such agreements restricts the deliberative discretion of agents and requires asking the EEQ. In individual morality there is no obligation to trust others, to expect them to be morally conscientious, let alone to expect them to perform desirable cumulative actions. However, where there is mutual acknowledgment of certain rules governing the actions of the group, there is an obligation

14 Of course, a rational agreement would allow exceptions, i.e., special reasons not to do one's part, but not the general reason that universal compliance is unnecessary.
to expect others to keep the agreement just as there is an obligation to keep it. After all, the obligation to keep it is conditional on others' keeping it, so if one does not have good reason to expect others to keep it, one is freed of the obligation to keep it oneself. If one no longer expects others to keep it, one reverts to the position of an independent moral agent, a position one voluntarily tried to escape. The point is not only that one's expectation that others will keep the agreement is necessary for one to have reason to keep it oneself, but that one is one of the others to the others, one of those whom each of the others is obligated and therefore entitled to expect to keep the agreement. For the agreement creates a mutually conditional obligation.

Conclusion

Once the element of selfishness and allied human frailties is factored out of the discussion of the moral relevance of asking the EEQ, we see that asking the EEQ is relevant only in special cases. It is relevant only as antidote to the cognitive instability that leads to the degeneration of cooperation in situations where it is mutually recognized that agents do not ask the EEQ and maintain full discretion in private deliberation. In these situations no one is free not to do an action whose general performance is required because there is a cognitive presumption to do one's part—or else everyone else is free from the obligation.

Where the object is to prevent a collective evil, a person is obligated to ask the EEQ under what would otherwise be a condition of cognitive instability. The reason is to provide a determinate basis for action. In cooperative schemes designed to achieve a collective good (or in ones for preventing collective evils that agents would not otherwise be obligated to help prevent) the source of the obligation is agreement. Agreements create mutually conditional obligations. Here everyone has an obligation to do his part (on condition that others do their part) partly because of an obligation to expect others to do theirs.

Even though people who waive the EEQ for nonselfish reasons might nevertheless be said to be taking advantage of those who ask the EEQ and perform the action whose general performance is required, the fact of the matter is that they are being morally conscientious in virtue of taking all the facts of the situation into account. They are not being unjust for doing what not everyone (though anyone) could do: rather, if everyone did the same, the facts would be
different. Indeed, if it became public knowledge that people are not asking the EEQ, then when particular problems arose there would be an obligation to ask it, in order to restore cognitive stability to the situation.

We assumed (5) at the outset that justice can be defined without invoking the EEQ. I have given no hint how this might be done, and undoubtedly there will be those who persist in thinking that it is simply unfair, whether or not a threat to coordination, not to ask the EEQ in situations where others are doing their part. To them I can offer only the consolation that the most thorough and systematic theory of justice yet propounded is based partly on the idea that justice of institutions embodies the best solution to the general problem of social coordination.15

In sum, by and large acts are right or wrong *simpliciter*, not in virtue of their generalizability. Only cumulative actions even prima facie invite the EEQ, but asking the EEQ is required not by justice but by the need to achieve cognitive stability for the pursuit of collective goods and the prevention of collective evils. In some cases, it is necessary that there be an agreement to create the obligation (and to identify the appropriate action). To accept any other reason for invoking the EEQ is, so far as I can see, sheer sentimentality.

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