COMENTÁRIO

VALUE JUDGMENTS, INCOMMENSURABILITY, AND RATIONALITY: MORAL PHILOSOPHY VS. ECONOMICS

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1. Introduction

The interesting essay by Gustavo Lucredi, entitled '*A comparabilidade do intrínseco e do superior: escolhendo entre bens incomensuráveis*', invites us to reconsider the philosophical debate on incommensurability, which was in the spotlight in the 1990s and early 2000s. Lucredi is certainly correct in assuming that rational choice involves a ranking of preferences, based on a comparative evaluation of alternative options. He is also right to emphasize that someone faced with difficult choices – for example, whether we should restrict individual liberties in order to preserve national security – might perceive that heterogeneous and irreducible values are at play. This intuition is precisely what the notion of incommensurability captures. Moral philosopher who postulate the existence of 'intrinsic values' have developed several explanations for incommensurability. Lucredi, on the other hand, argues that the concept of incom-

mensurability should be abandoned in favor of the opposite view: *options are always comparable*. I concur with Lucredi. In this brief commentary, I will add fuel to the fire, by arguing against incommensurability from a microeconomic perspective (see *e.g.*, ACEMOGLU et al. 2016), which is different but consistent with Lucredi's argument. In my view, the perception of "incommensurability" is caused by biases and framing effects, and moral philosophers such as Joseph Raz and Ruth Chang have failed to offer a convincing theory of choice.

2. Where Moral Philosophy Fails

The core of the concept of incommensurability can be stated as follows: often two conflicting interests, values, and principles appear to be incomparable because they cannot be traced to a single meta-value or 'covering value' (*e.g.*, justice, beauty, talent, and so forth). The impossibility of making all interests, principles, values commensurable – namely, the impossibility of converting them into a common quantifiable measure or scale – implies their incomparability and, eventually, prevents rational choice between the two. The concept of incommensurability is associated with the idea of value pluralism (ANDERSON 1997; BARBERIS 2006; KEKES 1993; WILLIAMS 1981), the general claim that values are: i) plural, ii) generate moral conflicts or dilemmas, iii) and cannot be reduced to a single meta-value or common measure (*e.g.*, cardinal utility).

It seems to me that much of the debate about incommensurability is rather ambiguous and misses the nature of individual choice. The moral philosophies of incommensurability proposed by leading scholars such as Joseph Raz (RAZ 1988: 321ff.) and Ruth Chang: *first*, do not explain with adequate granularity how individuals face hard choices; *second*, they do not even offer a theoretical framework for studying decision-making in opaque contexts, in cases of complexity, and for tracking preference variations over time; *third*, they do not provide sound benchmarks for rational decision making. For example, Chang claims that there are four, rather than three, evaluative relations – A is better than B, A is worse than B, A is as good as B, *and* A and B are *on a par* – though it is not clear in which sense 'being on a par' differs from 'being equally good' (CHANG 2006: 395 ff.). Chang also confuses *partitioning* – that is, the possibility of dividing options into a variety of relevant properties – with the *plurality* of "covering" values. Thus, Chang claims that «a "value" is any consideration with respect to which a meaningful evaluative comparison can be made.» (Ibid.) But this notion is misleading: the creativity of Michelangelo is not a value in itself, or an intrinsic value, namely, a consideration, measure, or parameter of evaluation. Instead, an individual *i* may assign a particular value to Michelangelo's creativity, determined by *i*'s utility function, and take Michelangelo's

creativity as a relevant property for choosing between, say, Michelangelo's artworks and the artworks of Michelangelo's competitors. The word 'value' denotes the result of a subjective evaluation process, not an entity *sui generis* or intrinsic evaluative property (VON WRIGHT 2000). Lucredi is thus correct in claiming that the impression of incommensurability arises from a peculiar (and only apparent) metaphysical 'status' attributed to (intrinsic) values.

The moral debate about incommensurability fails to capture the fundamental principles underlying individual decisions: optimization, trade-offs, budget constraints (which quantify trade-offs), opportunity costs, cost-benefit analysis, equilibrium, and free riding, to name a few. Authors such as Raz and Chang seem primarily interested in relying on their personal and entirely subjective intuitions about moral judgment to justify a metaphysics of values that seems completely divorced from the way *real* individuals decide, and whose predictive power is limited. When we compare dinner at a restaurant to going to the movies, or when we decide whether to buy apartment A or B, we do not think in terms of commensurability and incommensurability, "cover values", and intrinsic values associated with (or projected onto) options. Instead, we seek to optimize our choices based on our budget, the demand and supply of goods or services, and the availability of information.

When our choices intersect with those of others, we try to reach a Nash equilibrium (with our partner, our friends, our colleagues), by attempting to provide the best response to the strategies of the others, and avoiding free-rider phenomena that harm our interests. Decision-makers respond to incentives, and sellers – which can also be understood also in a very broad sense – face production, costs, and revenues. In general, individuals try to choose the best feasible option, given the available background information, calculating risks and probabilities in an intuitive way. Of course, this does not mean that individuals are always rational: they often deviate from the principles of rational choice and, therefore, fail to optimize. I will return to this point below.

The complexity of the mechanisms that govern individual choices and preference formation remains largely unexplored in the debate over incommensurability. Overall, the discussion is quite abstract and imprecise: Chang and Raz, for example, do not bother to distinguish between perfectly fungible options, complementary options, substitution, and incommensurability (HICKS 1939: Ch. III). If the options are perfectly fungible, one is justified in randomizing the choice. Also, the notion of perfectly fungible goods, which is well known in the economic and legal literature, is completely neglected in the moral debate.

Does incommensurability have any serious implications for law? If so, what legal practices are affected by incommensurability, and how do policymakers respond to this problem? The contributions of Raz, Chang, and others do not demonstrate any

relevant connection between the *moral* philosophy of incommensurability and current *legal* issues. In addition, judges and legal officials generally decide cases without asserting that their decisions are the result of 'irrational choices between incomparable values', even when they are confronted with hard choices, involving conflicts between fundamental rights. Judges rarely have troubles in quantifying both monetary and moral damages; this suggests the possibility of a legally quantifying gains and losses in monetary terms; therefore, *commensurability* is state of the art in legal reasoning.

Given these considerations, the potential legal implications of incommensurability philosophies are vague to this point. Perhaps – but I this is only speculation – the study of incommensurability could have implications for consumer protection. Perceived incommensurability may be important for better understanding consumer behavior, and for designing *choice architectures* (THALER AND SUNSTEIN 2008) that help individuals make better choices. The introduction of small transaction costs, for instance, may change consumer preferences and, subsequently, consumer behavior towards offers that are perceived to be incommensurable.

An analysis of incommensurability that aims to have some impact on actual legal practice should address questions such as the following: What is the role of incommensurability in consumer behavior? Does it lead to disregard, aversion, and nonparticipation? Or does it tend to encourage a tendency towards embracing the *status quo*? What are the most effective tools and interventions to promote individuals' ability to overcome incommensurability? In summary, analysis of perceived incommensurability may offer insight into how consumers manage their choices and support meaningful interventions to promote active and informed choices: *e.g.*, increasing attention and awareness, conducting numerical assessments, and so forth (KELLER, HARLAM, LOEWENSTEIN & VOLPP 2011). However, this path has not been followed by moral and legal philosophers who have explored the concept of incommensurability.

3. The Advantages of Turning to Microeconomics

Microeconomics now seems much better equipped than moral philosophy to theorize individual choices and preferences. Advances in microeconomics and behavioral science suggests that (supposed) "incommensurability" should not be treated as a metaphysical category, a definitional property of objective values, and the like. The phenomenon of perceived incomparability between choices depends largely on the fact that human beings are not perfectly rational, as they lack complete information, computational skills, optimal cognition (individuals are largely driven by emotions), and consistency.

The *perception* of incommensurability appears to be largely due to one or more of the following factors: a) inability to compute the probability of conditional events; b) inability to know the relevant future events that will be triggered by the decision; c) inability to determine all attributes – both observable and unobservable – of an object, commodity, or bundle of goods (*i.e.*, the presence of hidden attributes and hidden actions); d) inability to compute the contextual and situational data necessary to make the correct choice, according to an individual ranking of preferences; e) errors in computing the probability of events; f) lack of experience with particular decisions.

Ideally, perfectly rational actors would make decisions based on their utility functions ($U=\sum wiui(xi)$), computing contextual and situational information through complex inferences and calculations (DEBREU 1959: 55ff.). Once a particular individual has decided on an end (final preferences are, by assumption, entirely subjective), rational choice selects the best means to achieve that end (HARSANYI 1958).

As we have learned from expected utility theory, perfectly rational agents follow the basic principles of *completeness* (For all X and Y, either $X \geq Y$, or $X \leq Y$, or X and Y are indifferent), *non-satiation* (more is better than less), and *transitivity* (If $X \geq Y$, and $Y \geq Z$, then $X \geq Z$). Individuals in flesh and bones, instead, regularly violate these axioms. Even small changes in the architecture of choices (*e.g.*, the introduction of small transaction costs) can alter individual preferences. Although the abovementioned principles of rationality are very useful for developing a *normative* theory of rational behavior, they can only partially *predict* and *describe* actual human behavior, because individuals are often *slaves to their passions*. In other words, individuals are characterized by bounded rationality (SIMON 1960). The lack of sufficient information about the options under consideration is fundamental to the perception of incommensurability, since our decision between A and B depends on our beliefs about A and B, in conjunction with the expected utility probabilistically associated with A and B. This is the reason why the choice between A and B is so important.

Unlike computers and robots, individuals are imperfect agents, whose judgment is largely clouded by emotions (*e.g.*, regret, guilt, or pity) or prejudice (*e.g.*, racial prejudice), influenced by context, myopic, and inconsistent. Context, in particular, affects individual choices: for instance, when someone must select an option from a set of choices, they are typically more inclined to choose a compromise option. People who pay with credit cards generally tend to spend more (SOMAN 2001). As KAHNEMAN, SLOVIC & TVERSKY (1982) have shown, people are misled by cognitive biases and framing effects. Framing effects and biases lead to perceived incommensurability, which in turn can lead to inaction as individuals fail to make a decision (JOHNSON & GOLDSTEIN 2003). Due to laziness, individuals fail to bridge the gap between intention and action. Also, individuals decide under *risk and uncertainty*, by

choosing between lotteries (LUCE & RAIFFA 1957: 23ff.). These elements, too, can trigger the perception of incommensurability: if the choice between A and B is uncertain, or if individual *i* cannot estimate the probabilities attached to A and B's consequences with a sufficient degree of confidence, then *i* might perceive A and B as incommensurable.

The way people categorize their sources of income, spending plans, and general expenditures also affects individual choice and may accordingly produce a perception of incommensurability. If an individual *i* keeps only 100 Euros in her mental accounting file labeled 'going out', then *i* might face the following moral dilemma: either go to Disneyland Paris with her son, or take her husband out to Chez Pierre restaurant. These options might be perceived as incommensurable, for they involve a tragic choice between distinct values (being a good mother vs. being kind with your partner). However, this case of (putative) incommensurability disappears if *i* changes her mental accounting strategy allocating an additional 100 Euros to the category 'going out.'

The idea of incommensurability can also arise from choice complexity and option overload that undermine the ability to take decisions and form a hierarchy of choices (SOMAN 2010). For example, if there is too much choice of movies and an individual *i* cannot decide which one she prefers, then *i* might (wrongly) think to be confronted with incommensurable values. Consider another example: my difficulty in understanding abstract artworks undermines my ability to form preferences and trade-offs in this domain, so I consider two artworks to be incommensurable. Decisions are always contextual, and imperfect agents make imperfect choices. For this very reason, I argue that (perceived) incommensurability is due to bounded rationality, cognitive biases, framing effects, and prejudice. All these considerations, of course, presuppose a sharp distinction between normative and descriptive theories (rational choice postulates v. behavioral analysis). Normative theories do not describe actual behavior, but rather specify how people would behave based on rationality requirements. But the very idea of *deviating* from rationality, presupposes a set of normative principles that define rational choice.

Some cases of (supposed) incommensurability also arise from the lack of sufficient self-reflection on the parameters and standards for subjective preferences. If the decision maker had enough recourses to break down the options into a set of relevant properties and spell out the standards and benchmarks for utility evaluation, she would likely arrive at a refined judgment that overcomes the perception of incommensurability (WEST, BROWN & HOCK 1996). Finally, by analytically isolating the various relevant properties of two competing alternatives, the decisionmaker can calculate the product of the utility assigned to each property and make a final judgment that ratio-

nally justifies her preference. In principle, it is possible to isolate the relevant properties of any option – what Chang incorrectly calls "coverage values" – to allow for better comparison, refinement of judgment, and to adjust preferences over time. For example, A and B might be considered as incommensurable with respect to the evaluative properties *x* and *y*, but A might be better than B with respect to property *z*; or B*, which *ex hypothesi* is as good as B on properties *x* and *y*, outweighs B on property *w*. By considering *z* or B*, the decision-maker transforms a case of putative incommensurability into a case of asymmetrically dominated alternatives. In this brief commentary, I cannot address the issue of relevance, but there are sound methods for isolating relevant properties, given a set of initial preferences. However, *partitioning* choice objects – *i.e.*, breaking down competing options into multiple constituent properties, or into sequences of actions – can also be an effective routine for overcoming (perceived) incommensurability in some cases.

Similarly, a case of perceived incommensurability can be overcome by changing the decision framework (*i.e.*, the choice architecture): evaluating A and B not in isolation, but in conjunction with other possible options C, D, E, and F; shifting the focus from 'reasons for' to 'reasons against'; or, introducing a temporal construct into the process of evaluating the alternative 'either A or B', which may appear incommensurable at time *t1* but may well be perfectly commensurable given a possible scenario that occurs at time *t2*. It is rarely a matter of 'either A, or B' because there are usually more than two options, that evolve over time. Preferences, too, change over time.

The perception of incommensurability may also be a more direct result of a subjective bias or decision framework: *e.g.*, two options appear to be incommensurable because the decision-maker is risk-averse, but they might be asymmetric if the decision-maker were risk-inclined. Take the famous case of Plato's sword: if the decision maker has loss aversion, then he faces a moral dilemma; if he is risk-inclined, instead, then the raking of preference is clear: he should return the sword to his friend, and hope that the weapon will not be used to commit suicide. The same reasoning applies to Sartre's dilemma: a risk-inclined agent has a clear option, which is to go to war for revenge.

In sum, a case of putative incommensurability can also be understood as an invitation to reconsider one's own decision-making framework. This kind of intersubjective variation shows, among other things, that incommensurability is clearly not a metaphysical or "objective" property of moral facts and moral judgments. The same reasoning applies to the most striking cases of supposedly perfectly symmetrical decisions, such as Sophie's choice. When the risk-averse mother does not know what to do, the overconfident or risk-taking mother tells the officer to shoot randomly and

hope that he misses the target, or that the gun does not work. The choice is clearly suboptimal, but does not lead to a breakdown in decision making. It should be emphasized that, even in this case, a perfectly rational decision maker with unlimited time, unlimited resources, and complete knowledge about the future would be able to make the correct decision: a "super-forecaster" (TETLOCK & GARDNER 2015) might intuitively predict that one of the twins, but not the other, would become, in turn, a Nazi and a murderer in the near future. This might be a reason for choosing one over the other.

The error of Bernard WILLIAMS (1981) and other pluralists is to take a particular emotion, the sense of loss associated with regret, as the objective basis for a metaphysics of values and a dubious theory of individual choices. The concept of 'regret' itself is unexplored in moral philosophy and value pluralism: it is mistaken for a conceptual primitive that falsifies utilitarianism; however, the feeling of regret can very well be explained in terms of opportunity cost – what an optimizer gives up in making a choice – and the counterfactual imagination. If I have five hours of free time, and I decide to go for a walk, I naturally give up the opportunity to swim in the pool (opportunity cost). The feeling of regret arises when I compare the actual scenario (I go for a walk) with an alternative possible scenario in which I go to the swimming pool, and draw consequences that seem better than those of the actual scenario (CANALE ET AL. 2021). This process could expose a failure of my optimization strategy, depending on my preferences. Once again, there is no need to resort to the obscure notion of incommensurability.

It should also be emphasized that most examples used in the moral debate about incommensurability are misleading or unrealistic, since we usually choose between many options, not just between two alternatives. Presenting the situation of, say, Maria, who is faced with the choice of either washing the dishes with her roommate or going out with her friends, as a choice between two incommensurable options is simply wrong, given that Maria can normally also negotiate with her roommate or her friends, pay someone to wash the dishes, or decide to pick a fight with her roommate, or even move out of the flat. Moreover, incommensurability analysis generally makes the false assumption that decision frames and domains are immutable, which is clearly not the case. In particular, reframing and revision of beliefs over time play an essential role in decision making that is completely neglected in the recent philosophical literature on incommensurability. For example, if an entrepreneur finds that options A and B are incommensurable in terms of quality standards, he might change his decision framework and consider A and B from a different perspective: the potential of A and B to attract as many consumers as possible. Even without complex mathematical calculations and based only on his economic intuition, the businessman would probably find that A and B are asymmetric from this new point of view.

4. Conclusions

It is not necessary to use incommensurability to explain regret: the notions of 'trade--off' and 'opportunity cost' are sufficient to show that something is lost in any action or inaction, and that nothing comes for free. Microeconomics explains and provides normative standards for individual choices better than moral philosophies based on the concept of incommensurability. Authors such as Joseph Raz and Ruth Chang ignore the most fundamental features of decision making: its contextual nature and the fact that it is determined by utility.

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