

KNOWING FALLIBLY AND ITS EPISTEMIC AND NON-EPISTEMI IMPLICATIONS: FALLIBILISM REVISITED

OKWENNA, Chysogonus M.

Dominican University/Institute, Samonda, Ibadan.

Chysogonusokwenna@gmail.com; +2348033807674

DOI: 10.13140/RG.2.2.10379.82727

Abstract

This paper revisits the epistemological doctrine of fallibilism and discusses its overarching consequences to the whole structure of human knowledge and its extended applications. Fallibilism claims that we can never have absolute certainty to justify our knowledge claims. That means, knowledge needs not have an absolute, definitive warrants. Consequently, using the discursive method of enquiry, the paper argues that, if fallibilism is true, then, the concept of knowledge is redefined. Hence, knowledge would no longer mean the preclusion of error but the contextual absence of doubt. Accordingly, knowledge in this schema, would only be an approximation [or even a verisimilitude] to the truth or a working tool for future progress so long as it serves the purposes of the present. It is the conclusion of the paper, that aside its apparent epistemic implications, fallibilism has also non-epistemic implications which ranges from a more general change in attitude towards our stances to a more applied and direct consequences in both legal, religious or moral enterprises of human endeavours.

Keywords: consequences, epistemic, fallibilism, justification, knowledge.

Introduction

What happens when we know given some certain conditions and yet at another time mistaken under same conditions? The answer to this question is indeed multifaceted, with divergent answers from different epistemologists. Nevertheless, it is a fundamental question that underpins the concept of fallibilism. How can we both know and not know in the same prevalent condition? Or how can we both know and not know we know or not know how we know? These are the fallibilist dilemmas and paradoxes and to address them is to a large extent to say what fallibilism is or what it means to know fallibly. Consequently, it is the concern of this present discourse to revisit the doctrine of fallibilism and then discuss its consequences to the whole structure of human knowledge and its extended applications.

General Meaning, Formulation and Nature of Fallibilism

The point of departure for expressing fallibilism is simply that:

(A*) All beliefs are fallible (No belief is infallible)

To be more precise this can be commonly understood in the following manner:

(B) M can know that k even if it is possible that M is erroneous in believing that k

Because this is open to misapprehension it is pertinent to highlight three claims that it has often been mistaken for. First, it is not saying that all beliefs are false that is, it is possible for M to know that k even if it is false that k . For this would imply the denial of truth as a necessary condition for knowledge. Although it is allowed by fallibilism but it is not necessary. Secondly, fallibilism is not just saying that all who hold beliefs (people) are fallible, that is, M can know that k even though M is liable to be mistaken that k . People are said to be fallible if at one point in time they have held false beliefs but this is to be taken in the manner that the people have also believed infallibly. This however is not what fallibilism is saying.

(B) does not also espouse the idea of contingent truth, that is, it is possible for M to know that k even if it is possible that it is false that k . This is the same as saying that contingent truth can be known. For even non-fallibilists accept that contingent truth can be known - since it is the same as when one says 'I am in shock'. The realization of contingent truth (that all truth is contingently true) is not the concern of fallibilism. Conversely, fallibilism is concerned about our attempts in themselves to accepting or believing truth. It is about the subsisting limitations of the powers of our rational thought and representation.

Consequently, a satisfactory way to depict fallibilism is:

(A1*): All beliefs are only, at best, fallibly justified.

(B1) M can know that k even if M does not have definitive grounds that warrant believing that k .

This implies that people can know through non-deductive arguments. And when they do, they do so on the basis of perceptual, inductive, testimonial evidence that does not say what the evidence is specifically for. To be sure, we know many things through this way and that can be termed 'fallible knowledge.' This is best

noted in the light that if one proposition, *P*, is fallibly known, and *P* implies *Q*, and *Q* is believed because of *P*, then *Q* is also fallibly known as well even though the grounds for *Q*, that is, *P*, implies *Q* (Feldman, 1981).

(A1*) and (B1) better characterize fallibilism because they pinpointed that fallibility reside in the ostensible justification (epistemic justification) that is present on behalf of a given belief. The suggested formulation, A1*, of fallibilism is saying that there is never decisive justification for the truth of a given belief. This is a stronger form of fallibilism. It has more proponents and one of them is Nicolas Rescher. However, Charles Peirce, the father of fallibilism, is one of the few proponents of a weaker form of fallibilism, which might aver that any scientific theory or system might ultimately fail.

Fallibilism as a Theory about Epistemic Justification

Epistemic justification, generally, is whatever would make a belief reasonably well supported and directed to the truth. This is corroborated by E. Conee and R. Feldman. They argue that whenever some evidence is providing epistemic support (justification) for a belief, that it is a matter of supporting the truth of that belief (Conee and Feldman, 2004). Little wonder it is characterized by its essential relationship to the cognitive goal of truth. It is on this note that epistemic justification is said to be distinct from non-epistemic justification (that is, other species of justification such as moral and pragmatic justification) given that it uniquely intends to serve the goal of believing truth and avoiding falsity (Vahid, 2005; Swinburne, 2001; Sosa, 2008).

Accordingly, just as there are various interpretations of the nature of epistemic justification, epistemologists take care to read the best representations of fallibilism. Take for example A1*, the most traditional way to interpret it will be that no one can ever be in a position (even in the possession of evidence in favour of the truth of a specific belief). That, if one were to be so rational, that is, taking into cognizance, comprehending and disposed to the adequate response to just the evidence, the person could not proceed to doubt that the belief is true. Thus, as we have noted above, the best way to understand fallibilism as a theory about epistemic justification is in its locating the problem (the issue of fallibility) as originating within the purported justification that is present in the stead of a particular belief. So, with regards to A1*, the gist will be that no matter how satisfactory one's justification is in confirming the truth of a particular belief, that

justification is never so good as to be definitive or conclusive – there is always a room for improvement, or for rational doubt.

Rational doubt in this case is to distinguish this kind of actual or potential doubt from irrational one, which is a doubt that is only psychologically available. This kind of doubt can arise from two possible ways when we imagine that a person attending to the evidence for the truth of a belief refuses to accept the veracity of the belief. Now, suppose the person's rejection of the belief's truth value is due to (1) misunderstanding the evidence or (2) psychological issues such as perspectival prejudices. Doubt can always arise from such a sordid reason even in the face of rationally conclusive evidence. However, fallibilism is not concerned about that psychological case of doubt. Conversely, it deals with a rational doubt; it is indeed what it claims to be – the ever-present availability of rational doubt.

In the light of the preceding paragraph, one possible way of misinterpreting A1* would be muddling the notion of a rational doubt with that of a subjectively/psychologically felt doubt. Rational doubt need not to be psychological doubts, in the same way psychological ones need not be rational ones. As a conjecture, one may be doubtful with regards to the veracity of a particular claim where this doubt is uncalled for, perhaps the person felt that way as a result of misconstruing the vigour of the evidence the person has for the claim. Similarly, misconstruing can occur when the person becomes doubtful towards the truth of a belief, when this doubt is needless. In either case, the person's reactions by being doubtful and not being doubtful does not determine whether the person's evidence is actually providing rationally conclusive support. This is because a particular reaction (doubting or not doubting) might be wanting of justification or not as rational in itself as is possible. Stephen Hetherington provided an analogy for such a scenario: "a brutal tyrant who claims, sincerely, to have a clear conscience at the end of his life. The morality of his actions is more obviously to be explicated in terms of what his conscience should be telling him rather than of what it is telling him" (Hetherington, 2019).

Essentially, A1* as we keep reiterating, is saying that whatever case the evidences are making, no matter how carefully they have been collated and no matter how rational they were used and evaluated, there can never by that means be a definitive justification for a belief which is to be supported through all those evidences. Likewise, A1* is saying that despite the circumstances that one might occupy, and come what may in the formulation of any particular belief, no guarantee is thus provided of the veracity of the belief. In these regards, according

to A1*, any justification available is susceptible to error – fallible – it will remain so come what may. In that way, fallibilism as a theory about epistemic justification peregrinates way down into the human cognitive condition than it would be if it were a matter of logic.

Simple Analogies Towards Understanding Fallibilism

The simplest way to comprehend fallibilism, given all that has been expounded above; is that it is a method of thinking critically, or a critical thinking, in which our assent or attitude to the available evidence undergoes proportionating or weighing. Considering a person who plays a lottery game and the chance of winning is 1 ratio 100000000. The person would not certainly know that he will lose but the person can be very certain that he will not win. Now if the person plays more, s/he slightly increases the chance of winning. But the person can be very confident that s/he will not win. Similarly, if a biologist says s/he knows it is true that there are 206 bones in the adult human body, it means that the proposition is true beyond reasonable doubt. This is definitely true unless humanity for years has been in dream to conceive that, or a powerful force has deceived us all into thinking that there are 206 bones. Although these could happen but there is no reason to believe that it was all in the dream that the whole of humanity simultaneously saw that there are 206 bones or that we are all collectively deceived.

Now, there is mind-boggling evidence for the groundwork ideas/facts of modern biology, but none that people who play betting games or lottery generally wins. To be sure, the evidence will suggest that almost everyone who plays these games loses. Now, a critical mind would learn to tell apart the almost certainly true and the probably true; similarly, to tell the difference between the likely to be true, the probably not true and the obviously false. To make clear what I am saying here, let us consider some other examples. Assume I say, as one born in Nigeria and presently residing in Ibadan, one of the following:

- (1) I have been to Gliese 581c.
- (2) I have been to the Antipodes Islands several times.
- (3) I visited the Antarctica once.
- (4) I have been to Spain.
- (5) I have been to Algeria.
- (6) I have been to Oyo.

(7) I have been to Ibadan.

It is conspicuous that as we go down the list, the possibility that I have been to those places increases. In the first example, the chances that I have been to Gliese are pragmatically inexistent (of course, the fallibilist must concede that I had, perhaps, I am an extraterrestrial being who had taken human form). In the last example, it is 100 percent ascertained that I have been to Ibadan unless I lied about living in Ibadan or I am deceived by powerful forces to assume that I live in Ibadan. Accordingly, if I claim (1), then it is beyond reasonable doubt that the claim is false. If, however I tell someone (7) while inside the University of Ibadan, then the person will know beyond reasonable doubt that the claim is true. Likewise, if I tell someone (4), the person will not just know, s/he will have to evaluate the evidence to weigh the probability that my claim is true.

Consequently, this is how one can be a fallibilist and claim to know things concurrently – indeed this is what it means to ‘know fallibly’ as opposed to not knowing at all. Any belief I have could be wrong, but I feel remarkably convinced that (1) is false and (7) is true. If I am justified in being remarkably convinced by the evidence, then knowledge is born. Finally, fallibilism presupposes that any belief could be wrong but some are more likely to be true than others. All that is required is that one takes care to proportion/weigh their assent to the available evidence.

Reasons for Fallibilism

Fallibilism is that epistemological theory, as we have seen, that has reconciled the knowledge dilemma or seeming paradox, that investigates how possible we can say, with congruity, that our ideas might be erroneous, yet we are still justified in believing them. The only question that still remain unasked is why Fallibilism? Through observation and advance in empirical research we have been shown how fallibility enters our cognitive faculties such as can be deduced from the suppositions of the previous sections. One of such ways is by misusing evidence. This can occur when we miscalculate the strength of the evidence before us or overlook some of its pertinent components. Other reasons for fallibility will include unreliable senses and memory, reasoning fallaciously, limitations of the modes of our representation; we use language and thought to represent things as we see them, but oftentimes we are mistaken as a result of the inadequacy of this medium (Hetherington, 2019). For example: suppose I am a king in the 15th

century England and the only way we can communicate between far distances is through letter writing. Now there is this criminal that is to be sentenced and only I have the power to release him, then I write to the hangman to release him: “release him, not kill him.” Assuming I misplaced the comma and inserted it after ‘not’, then the statement would now read: “release him not, kill him,” he will be killed whereas I wanted him to live. If I left the comma altogether then the hangman will be confused. This is an illustration of the extent to which this limitation can go. Finally, the last practical reason for fallibilism is the limitations of intelligence. We often observe mistakes coming from people as result of their possessing lesser intelligence (Hetherington, 2019).

Epistemic and Non-Epistemic Implications of Fallibilism

At this crossroad, after having to a large extent looked in detail what fallibilism is and what status uncertainty occupies in our knowledge acquisition, it seems appropriate to add to this work the overarching implications or consequences of fallibilism to the edifice of human enquiry. To recap, according to fallibilism, every logical inquiry is an attempt to escape from inevitable doubt and fallibilism is a theory that we can never have absolute certainty to justify our knowledge claims. So, what does this situation have for the whole of human quest to know.

Practical Implications

First and foremost, fallibilism is not just a thesis but an attitude. If anything characterizes reason in critical ratiocination, such a thing is more of an attitude than it would be of a mere adherence of a purported scientific method. If so, then that attitude is not restricted to the scientist, but recommended for any person who in any occupation desires to act in a reasonable way. This attitude is no other than the fallibilist attitude. After canvassing Peirce’s fallibilism it would seem outlandish if a change of attitude, from the dogmatism and foundationalism that is more characteristic of the human projects, was not required.

According to Peirce, fallibilism, together with a confidence in the reality of knowledge and a sincere and serious desire to learn, makes up, the core of his thoughts. Peirce contends that the fallibilist attitude is one to be desired in a scientist and that indeed originates from experience: “persons who know science chiefly by its results – that is to say, have not acquaintance with it at all as a living inquiry – are apt to acquire the notion that the universe is now entirely explained

in all its leading features” (1837). Fallibilism according to Peirce, demands an attitude that arises from our proven incapability to foresee with certainty what future science will be like. This attitude which is in itself practical has in turn many implications. Accordingly, the practical consequence of fallibilism may be summed up with Peirce’s famous dictum: “Do not block the way of inquiry.” This dictum demands that we should not close the doors to learning not because it is an end in itself, which would make it a futile quest, but because each and every one of us may be wrong, and to block the way out of error would be senseless rather. That is, although, we sincerely believe in the truths of our ideas and have done our best to tender them to criticisms, we cannot shy away from envisaging that even at that they may be wrong and we cannot avoid acting correspondingly, that is avoiding the block to inquiry. However, this entails that research must continue for the very reason that its object is the development of true knowledge.

Therefore, any human activity that leads to the encumbrance of genuine research must be conceived as depraved, nefarious and preposterous. Attitudes such as dogmatic pedagogy, obliterating different orientation, inadequate information, exquisite or callous censorship of criticism, limitless and aggressive application of technology, and so on, are frowned at by the doctrine of fallibilism.

Implications for Foundationalism and Coherentism

Foundationalism and Coherentism are two independent theories that describe the structure of knowledge and justification and they are distinct by the way they each explain epistemic justification. Hence, foundationalism claims there are sets of beliefs which provide stopping-points for chains of justification. That is, there are basic beliefs that by their very nature justifies other beliefs and they are intrinsically credible beliefs such that they need not be justified by other beliefs. They are somewhat “self-evident.” Likewise, as a theory of knowledge, foundationalism claims knowledge is knowledge when it rests on justified beliefs that are basic so as to make them enjoy epistemic incorrigibility, certitude and indubitability. Foundationalism is very much like basic real numbers; 0,1,2,3. They are interconnected and successive (Williams, 2001).

On the other hand, coherentism makes justification an interconnection between beliefs. Thus, a belief derives its credibility from its playing a role in a larger system of beliefs. According to coherentism, knowledge and justification are structured like a web where the strength of any given area depends on the strength of the

surrounding areas. For the coherent theory, justification is a property of the whole system (Williams, 2001).

Foundationalism is like a building with its basic foundation. That foundation supporting all that might be built on top of it. Coherentism, however, is like an interconnected space station that rests on nothing. These two theories have been impacted greatly by the emergence of the theory of fallibilism. To be sure, their failures to offer an adequate theory of knowledge and justification have caused their general acceptance to dwindle. It is said that both foundationalism and coherentism gave rise to fallibilism. Their limitations and failures resulted in fallibilism gaining more prominence. It should be recalled that fallibilism is the idea that epistemic propositions can be accepted as true even when such propositions cannot be absolutely justified. Ultimately, coherentism is an offshoot of foundationalism (it emerged to correct the failures of foundationalism – as against the basic status of some beliefs in foundationalism, each position in the web of coherentism must at least be self-justifying – have a foundation). Foundations themselves are justified on the basis of their absolute necessities – they must present themselves as tautologies (necessary truths).

One basic problem against foundationalism is that it cannot tell us which beliefs are basic or self-evident that would not need further beliefs to justify them (the problem of basis). Such basic beliefs that suffice for knowledge must be intrinsically credible. That is why, it must depend on its content for this credibility so external factors need not apply. Foundationalists more commonly appeal to experiential knowledge as an example of self-evident belief. This is because it is basic by virtue of being the highest common factor in veridical and non-veridical perception. Such beliefs or knowledge also rest on acquaintance (experience and sensation). These beliefs and knowledge are just given by experiencing them. Foundationalism therefore knots basic beliefs or knowledge (that are so basic that do not need further justification) on empirical data or experiential matter. However, these beliefs or knowledge are only so according to how we perceive them. This is where the problem lies. We might be mistaken on our object of experiences as we have seen. Peirce, to map out his theory of fallibilism, has already demonstrated how all our supposed sources of knowledge including experience cannot be indubitable (Peirce, 1837, 1955). If we can be mistaken in our experiences, it means foundationalists' basic and indubitable beliefs and

knowledge are after all, not basic and indubitable. That is why classical foundationalism failed woefully in the attacks of skepticism.

Foundationalism has also failed to satisfy those standards upon which a given belief would enjoy such epistemic privilege. It simply could not provide “non-question-begging guarantees” for the robust claims it made (epistemic incorrigibility, indubitability, and infallibility). As a result of this failure, fallibilism has over the years evolved to amend the excesses of foundationalism by providing a modest or moderate version of foundationalism – fallibilist foundationalism.

Fallibilist foundationalism, therefore, makes claim to certainty in epistemic justification, such certainty is not construed in a definitive, infallible or non-revisable sense. Rather this model accommodates the concerns or epistemic anxieties of the anti-justificationist and anti-foundationalists (such as the skeptics), about knowledge. It does this by characterizing the foundations of knowledge and justification in a manner that is of interest and relevance to the skeptics and fallibilists: it acknowledges both certainty and fragility of the very foundations upon which human knowledge and justification rests. In doing so, its claims are kept modest, not exaggerated. More so, this approach is “paradoxical” because it deals with two contrary notions; yet it is also “synthetic” because it seeks a point of convergence, a middle-ground, where the inherent “antimonies” are diffused or dispelled. Accordingly, in using a modest version of foundationalism, the range of possibilities within which the skeptical challenge can achieve success is limited (Hendricks, 2006).

Finally, with the failures of foundationalism and its ultimate re-adaptation by fallibilism, excesses of coherentism are not far-fetched. Coherentism opposed foundationalist claim to doxastic basicity (beliefs that are intrinsically justified and as result, justifies other beliefs) in its stead; it leaves belief systems floating clear of reality, like a space station. Coherentism has what is called “cognitive spontaneous beliefs” or “perceptual (in a way).” They need both spontaneous beliefs and epistemic beliefs to regulate them. This is the “rationalized input requirement.” It is the material constraint for coherence, since every belief system needs external constraint and beliefs without which it is just a game. Accordingly, coherentism has the plus of making perceptual input something that must be scrutinized and enjoys less epistemic status (which is not like the foundationalist exalted status of basicity).

Fallibilists' clamp down on coherentism would be on its insistence on material constraint of scrutiny which must be confirmed by human cognitive faculty. Like Peirce's ground for fallibilism would show (Peirce, 1837, 1955), this faculty has its limits. It is also prone to error. And if it is error prone, then it means that it could pass for as rational what actually does not make sense on the web of beliefs that constitutes the structure of coherent theory of knowledge and justification. Consequently, we are drawn back to adopting a moderate version of any theory that would not accord absolute justification to any set of beliefs. And what other theory serves this purpose better other than fallibilism?

Knowledge as the Approximation of Truth and a Working Tool

The major implication of fallibilism in epistemology was its redefinition of knowledge and certainty. Peirce's fallibilism revolutionized the notion of knowledge and certainty. Hence, knowledge (and the certainty that characterizes it) is not the preclusion of error but the contextual absence of doubt. As a result, knowledge is no longer absolutely definitive but a working tool for the moment. Knowledge is more or less a work in progress.

Prior to fallibilism, to really know something means that one cannot possibly be mistaken. But several times we think we know something and it turns out we were mistaken (Homer and Westacott, 2000). Given, this experience we cannot possibly claim that knowledge is the absolute absence of error. Furthermore, even the traditional account of knowledge – the tripartite analysis of knowledge – that specifies the necessary and sufficient conditions for knowledge; has been found not sufficient.

According to this account, knowledge (as in S knows that p) is justified true believe (JTB). False propositions cannot be known. Therefore, knowledge requires truth. A proposition S doesn't even belief cannot be a proposition that S knows. Hence, knowledge requires belief. Ultimately, S 's being correct in believing that p might merely be a matter of luck or intelligent guess. Therefore, knowledge requires justification. This is how we arrive at the tripartite analysis of knowledge: S knows that p if and only if p is true and S is justified in believing that that p (Ichikawa and Steup, 2018).

Despite how convincing the tripartite analysis of knowledge is, it has been shown to be incomplete. There are cases of JTB that do not pass for knowledge. The Gettier cases are typical example. They arise because neither the possession of

evidence nor origination in reliable faculties is sufficient for ensuring that a belief is not true merely because of luck or intelligent guess (Ichikawa and Steup, 2018). Accordingly, ever since the Gettier cases, epistemologists have been engaged in warfare of ideas trying to decipher what constitutes knowledge.

Despite the efforts and failures, fallibilism seems to be the best alternative to account for the nature of knowledge. Come to think of it, if the major sources of our knowledge are limited, it means whatever knowledge we get from them is susceptible to been mistaken. If this is so, then knowledge does not need to be a fixed state of affairs because what we have today might actually turn out to be erroneous tomorrow. Thus, what we have today (knowledge) is nothing more than a working tool. It might not be the truth but it is surely its approximation.

Knowledge in this regard is only required to be a nearness to the truth. It does not have to be the truth. Otherwise, it would mean we have always known very little. Accordingly, another way to understand fallibilist redefinition of knowledge is by appealing to practical certainty (as opposed to theoretical certainty). We are indeed quite certain that many of our beliefs are true. Do I know for sure that boiling the yam on the stove would make it hotter and softer? Definitely I know that. The evidence for my knowledge is that I will never put that yam into my mouth without cooling it first. This proves that in everyday life we go about our everyday life with enormous confidence in our everyday business with enormous confidence in our everyday beliefs. Our ability to do simple things rests on a great many beliefs. For instance, just to fetch water from my bathroom, I must have the belief that when I turn on the tap, water rushes out. If very many of such beliefs turned out to be false, I probably could not complete the task. However, there are two points associated with this reasoning.

First, it does not prove any particular belief to be true; at best it only shows that a fair percentage of our beliefs must be true. Thus, why practical success can be explained most simply as resulting from correct beliefs, it does not guarantee the truth of any particular belief. Secondly, from a theoretical view point, our practical success in dealing with the world is compatible with none of our beliefs being true – as in, in the sense of accurately describing the way things are. Our beliefs form a system that functions as a model of reality. We generally trust this model because it allows us to make accurate predictions and manipulate things (as when I fetch water from my bathroom). However, we have no way of proving that this model accurately maps the way things are other than by appealing to its practical success; and this success only proves the model's usefulness; it does not prove its truth.

An example is the geocentric model of the solar system that was generally accepted before Copernicus; it was quite successful from a practical point of view. It enabled astronomers to predict accurately the paths of the star, planets, eclipses of the sun and moon, and other similar occurrences. But we now think that this model, although useful, was not a true representation of reality. It seems then, that our beliefs need not be absolutely certain before it could pass for knowledge and be useful to us. All that is required of it is a verisimilitude to truth (or how things actually are). In the mean time we make do with what we have. Fallibilism realizes this and reasonably shifts the notion of knowledge to what is actually obtainable in the real world. Knowledge as the absence of mistake seems to be possible theoretically after the long battle of ideas that has continued to persist in the human quest to know/scholarship.

Legal Implication

Frederic R. Kellogg in his article, "Legal fallibilism" argues that law, like science is a form community inquiry. He illustrates a process that is parallel to how scientists contribute to or add to the wealth of human knowledge. In this schema, community of scientists involve themselves in the exploration of a common and ongoing, but specific problem. Accordingly, for Kellogg, the "many minds" in the final sentence include trained judges, as well as lawyers on opposing sides of a succession of recurring disputes that, when arising at the first instance, is better resolved without prejudgment according to a preexisting principle. Like in science, the caution against premature generalization is frowned against and like scientific experiment an early decision in an emergent controversy opens inquiry by creating precedent for future cases (Kellogg, 2008).

In Kellogg's illustration, multiple findings can reveal similarities and after the accumulation of jury decisions discloses patterns, judges may begin to generalize; he borrows this from Oliver Wendell Holmes. This is like in science, where it is only after an enough experience has established a distinct pattern that trained observers may begin to "abstract" a general rule. He further highlights the relationship between law and science:

Both are prompted by practical problems confronting the community at large, reflecting Peirce's doubt-belief model of inquiry. In both, informal and non-professional attempts to resolve such problems, burdened by superstition, have been replaced by formal and professionalized analysis (Kellogg, 2008, p.6).

Now, if such a correlation can be made then it raises a concern for the current state of affairs in the legal systems of the world. Kellogg himself decries the obscurity that the parallel has encountered by the emphasis of contemporary jurisprudence on legislation. Oftentimes, it is the case that law in many societies operates by the rescript from sovereign institutions and the general rule at least to a large extent, are made sturdy, unreviewable, and sacrosanct in application as though humans are made for it.

To be exact, let us consider the case of death penalty and fallibilism. It raises a great concern that such a phenomenon still exists in the 21st century. Fifty-six countries retain death penalty (including such developed country as the US) and 60% of the world population lives in countries where death penalty is applicable by law (Amnesty International, 2018). Accordingly, the possibility of error avowed by fallibilism, apply with particular piquant to the death penalty matter. It has been observed by independent agencies especially in the US, to be a process “fraught with error, discriminates on the basis of socioeconomic status, race, and geography, it is arbitrary and capricious, including its use against the mentally ill and defendants who did not kill anyone and who did not intend that anyone be killed” (Amnesty International, 2018). Observations such as these will help us to see how overarching fallibilism can be. For if we cannot be entertained about the justifications that got someone to death row, then, it logically follows that we might be wrong about their guilt. Put simply, death penalty is an equivalent of one such cases (that Peirce decries) where the road of inquiry is blocked. It is the only form of punishment that closes the possibility of further inquiry into the case and this can lead to injustice that can never be overturned. History has repeatedly born witness to this. So, we can represent this argument succinctly as follows:

1st Premise: That death penalty should only be used if and only if we can prove beyond reasonable doubt (certainty) that someone is guilty. [It is “if and only if,” because there is no room for self-correction when someone is sentenced to death]

2nd Premise: However, no belief, including that someone is guilty, can be conclusively justified (no certainty to that effect).

Conclusion: Therefore, we should not apply death penalty.

Ultimately, if fallibilism is true, then, it would require that the interpretation of statutory and even constitutional language, is ceaselessly applied to new and

unanticipated situations and that they are advanced on case-by-case revisionary ground that can equitably be understood as fallibilistic. If this can be done, then the fifty-six retentionist countries could (under that pretext) update their constitutions to join the 142 abolitionist countries.

Religious and Moral Implications

Although fallibilism was meant for scientific knowledge or inquiry (according to the intention of its earliest pioneers: C.S. Peirce, John Dewey etc.), it is not consigned to it. And since knowledge informs all human projects and orientations it seems fitting to look at the consequences of fallibilism on religion and morality. It is good to note that at the time fallibilism was emerging as theory of enquiry, the Catholic Church was the strongest religious force against the dawning secularization of the time. So, most of what will be said will tilt towards this oldest Christian institution.

In his article "Fallibilism and Faith," Richard Shusterman critiquing Cardinal Ratzinger's homily at the votive mass for the election of the new pope, argues that the cardinal "refuses to acknowledge the intermediary positions that could better serve the growth of faith and understanding" (2007). Shusterman reacted to Ratzinger's condemnation of the "dictatorship of relativism," wherein the Cardinal defines relativism as a "trickery that strives to entice people into error," so that their belief is "tossed here and there, carried about by every wind of doctrine." In tandem to this, the Cardinal further contrasts relativism with the Creed of the Church," which he describes as "truth" and "knowledge" that are determinate, unequivocal and "definitive" because it is received directly from Jesus and Christ tells us that all he gives to us, he receives from the Father. Christ gives us his full trust and with trust, also knowledge and to our weak mind he entrusts his truth. Accordingly, we will not be mistaken to say that almost all religious principles depart from maxims such as this, that the truth they possess is unsullied, absolute, certain because it comes from a supernatural being who has nothing but absolute perfection. History is a better teacher to enlighten us. Now, Shusterman observes, that one intermediary position or attitude that Cardinal Ratzinger's homily (and religious maxims such as contained in the homily) ignores is fallibilism, which contends (as the homily does) that our minds are weak but also retains (in contrast to the homily) that human knowledge, as deficient, needs continuous amendment (Shusterman, 2007). Fallibilism, hence combines, as Christianity (and indeed other religion) should, humility with an ethics of

perfectionist meliorism (an intermediate of pessimism and optimism). Viewed in this way, it would seem that fallibilism is not incompatible with Christianity (or religion as a whole).

However, religion, for fear of errors that could taint its principle totally blocks the way of inquiry. Here, care should be taken to not confuse fallibilism and Karl Popper's falsificationism, which avers that, knowledge grows only when we attempt to falsify our beliefs and theories so as to test their veracity and discover errors; fallibilism on the other hand concedes that future experience may show that our present beliefs are somewhat insufficient and deficient to newer ideas that progress from but outlie them. In fact, Peirce criticizes Cartesian doubt for this reason; he would contend that it is a waste of time to doubt the little things we managed to grasp; instead, we should spend our energy on those innumerable things we are not sure of (Peirce, 1837, 1955). So far, we have seen what fallibilism means for religion. In fact, Peirce was far from being a relativist, nihilist or sceptic; he is rather a scholar and a Christian believer who encourages intellectuals "to worship God in the development of ideas and of truth" (Peirce, 1837, 1955).

From Shusterman's commentary on the then Cardinal Ratzinger's homily, we can see how fallibilism instead of tainting religion, can advance spiritual growth, enhance ethical knowledge, and intensify religious faith since it shuns the strains between dynamism and staticity, growth and truth, that the Cardinal's homily was frightful about. Shusterman argues that the Cardinal's efforts to mediate these strains by making a repeated recourse to the complementarity of the body and soul prove ineffectual because these notions, as he employs them, are equally crminated in dualistic discordance. He adds, that it appears to him that the Cardinal has been looking for philosophical assistance in the wrong place; and he recommends with respect, that [Peirce's] fallibilism may be of use to him (and indeed religion as a whole) as an ethicist and theologian (and as an ethical and theological institution) (Shusterman, 2007). Finally, fallibilism is the right attitude towards moral dilemmas, as it gives a most favourable account for change in moral principles with the passage of time and the advent of general changes in human values.

Conclusion

This paper began to say what it means to fallibly know, or better still what fallibilism is and how it is formulated by exploring primarily the thoughts and

submissions of contemporary epistemologists Stephen Hetherington and Richard Feldman. The paper went further to highlight the consequences or implications that these doctrines have for the age-long human attitude towards knowledge and its applications. In summary, the paper shows that:

1. To fallibly know is to know that, even if one does not have a conclusive warrant to believe that. Thus, fallibility resides in the ostensible justification (epistemic justification) that is present on behalf of a given belief.
2. Fallibilism presupposes that any belief could be wrong but that some are more likely to be wrong or right than others.
3. The major reason for fallibilism is the limitations of our cognitive faculties. That is, the fact that we can misevaluate evidences amongst others.
4. Knowledge is possible even when there is no conclusive justification for such a knowledge claim.
5. Knowledge is no longer the absence of error but the contextual absence of doubt.

References

- Amnesty International, "Abolitionist and Retentionist Countries as of July 2018," Index: ACT
50/6665/2017.
- Conee E. and R. Feldman. *Evidentialism: Essays in Epistemology*. Oxford: Oxford University Press, 2004.
- Feldman, Richard. *Epistemology*. New Jersey: Prentice-Hall, 2003.
- _____. "Fallibilism and Knowing that One knows." *The Philosophical Review*, vol. 90, no. 2, April 1981.
- Hendricks, Vincent. *Mainstream and Formal Epistemology*. New York: Cambridge University Press, 2006.
- Hetherington, Stephen. "Fallibilism," *Internet Encyclopedia of Philosophy*.

Jonathan Matheson (ed.), accessed 17th December 2019. <https://www.iep.utm.edu/fallibil/&hl=igNG&grqid=XnSx0tXO&geid=1084grqid=>.

Homer, Chris and Emrys Westacott. *Thinking Through Philosophy: An Introduction*. New York: Cambridge University Press, 2000.

Ichikawa, Jonathan and Mathias Steup. "The Analysis of Knowledge," *The Stanford Encyclopedia of Philosophy* (Summer 2018 edition), Edward N. Zalta (ed.). URL= [<https:// plato. stanford. edu/archives /sum2018/entries/knowledge-analysis/>](https://plato.stanford.edu/archives/sum2018/entries/knowledge-analysis/)

Peirce, C.S. *Collected Papers*. C. Hartshorne, p. Weis and A. W. Burks (eds.) (Cambridge: Harvard University Press, 1931-1958), (1. 13-14, c. 1897).

Sosa, Ernest. "The Raft and the Pyramid." In *Epistemology: An Anthology*, eds. Ernest S., Jaegwon K., Jeremy F., and Matthew M. Malden: Blackwell Publishing Ltd., 2008.

Swinburne, Richard. *Epistemic Justification*. Oxford: Clarendon Press, 2001.

Vahid, Hamid. *Epistemic Justification and the Skeptical Challenge*. New York: Palgrave Macmillan, 2005.

Kellogg, Frederic R. "Legal Fallibilism: Law (Like Science) as a form of Community Inquiry," *Discipline Filosofiche*, vol. XIX, no. 2, 2008.

Shusterman, Richard, "Fallibilism and Faith," *Common Knowledge*, 13:2-1, (2007), p. 379-384