victory
briefs
textbooks
www.victorybriefs.com

The Value and Criterion Handbook

The Value and Criterion Handbook

Introduction

Lincoln-Douglas Debate has evolved a great deal over the last twenty years, but at its core it is still value debate. Since the early 1990s, Victory Briefs has sold Value and Criterion handbooks composed of thoughtful essays from accomplished debaters and coaches on various philosophical concepts relevant to LD. This year we have decided to retire the series and bring you an updated Value and Criterion Handbook. For this book we culled through each volume in the series, selecting and updating essays that are most relevant for today's LD Debater. We also added a great deal of new material to ensure that we continue to provide resources on the cutting edge and to supplement the material that has helped generations of LD Debaters navigate their way through the world of moral and political theory.

Two principles have guided the process of bringing you this updated version of the Value and Criterion handbook. First, we place a great deal of emphasis on debate applicability. Our hope is not only that readers will gain a deeper understanding of the philosophical concepts commonly deployed in LD Debate, but also that they will be able to utilize that knowledge in constructing case positions, writing blocks and frontlines, and engaging opposing positions. For that reason you will see debate applicability emphasized throughout the text.

Second, we hope that this book will be a jumping-off point for further exploration and research of these important and compelling schools of thought. No essay in this handbook is a comprehensive guide to its subject matter. While you will be able to deploy many of the concepts you learn right away, we also hope to give you the resources to dig deeper into topic areas that interest you and to navigate philosophical writing with more confidence and understanding. In other words, this book provides you with the foundation to engage value debate in a way that is not only philosophically competent but also innovative.

The material in this volume is designed to provide useful information to all debaters regardless of their experience or debate style. As with any collection of opinions from a community of debaters, our authors periodically disagree. We believe this represents a great opportunity to think more deeply about a given philosophical issue or how to deploy philosophical insights in a debate round. Ultimately there is more than one way to debate well, and finding the style that is most comfortable for you is important to reaching your maximum potential.

Notes on the Text

This book is divided into sections on Moral Theory and Political Theory. In real life that distinction is somewhat artificial. While the organization gives you a rough categorization of the schools of thought presented, you will find that essays in Part One have a great deal of relevance for political theory and that essays in Part Two have a great deal of relevance for Moral Theory. I encourage you to avoid pigeon-holing any of the theorists presented as relevant to only one type of resolution.

Moreover, this book has essays from debaters and coaches of different eras. We have included topics that are of enduring relevance to LD Debate. We have also updated the essays to reflect subsequent developments. For example, several of the essays were written when John Rawls and Robert Nozick were still alive and contributing new thoughts to the world of political philosophy. For the most part the text has been left intact to preserve the diverse array of our author's stylistic sensibilities, but for the older essays any errors or omissions can be attributed to the editorial staff rather than the author.

Finally, you will find some overlap in the material presented as different authors approach schools of thought from different perspectives or with a different emphasis. This overlap is intentional so that debaters get a fuller sense of how members of the community think about a given theory or school of thought.

For more information about Victory Briefs, the Victory Briefs Institute, or Victory Briefs publishing, please visit www.victorybriefs.com.

Enjoy!

Part I: Moral Theory

Methods of Moral Argument
By Eric Beerbohm

This essay first discusses the relationship between moral intuitions and moral theory. Next it describes the Coherence Method of moral reasoning and discusses debate positions which invoke the idea of moral relativism. Finally, the article demonstrates eleven different argumentative strategies in moral theory.

What makes a good argument for a normative conclusion? By normative I mean something that we <u>should</u> do, not merely what we have done or are doing. Lincoln-Douglas debate is argument about normative, value-driven questions.

> Christine Korsgaard, Sources of Normativity (Cambridge, 1996), p. 1.
>
> It is the most striking fact about human life that we have values. We think of ways that things could be better, more perfect, and so of course different, than they are; and of ways that we ourselves could be better, more perfect, and so of course different, than we are. Why should this be so? Where do we get these ideas that outstrip the world we experience and seem to call into question, to render judgment on it, to say that it does not measure up, that it is not what it ought to be?

No doubt, the ethical beliefs that we hold most dearly are to a large extent hand-me-downs from our parents, friends, teachers, and our religious leaders. But the very activity of Lincoln-Douglas debate, certainly the original series of Lincoln-Douglas debates, presupposes that our practices and institutions must be subject to intense moral scrutiny, that moral progress is possible, and even that such progress may come from rational reflection upon our most cherished values and beliefs.

Lincoln-Douglas debate is not about the mere voicing of moral intuitions that we happen to have. Assume a debater is preparing her affirmative case for the topic – that terminally ill patients have the right to die when and how they choose. We all agree that she cannot simply stand up and say she happens to agree with the resolution, and dress up the case with five big-name bioethicists who happen to endorse the resolution as well. Even if she presents an elaborate value and criteria, she will yet to have offered a reason in support of her moral position. The debater must attempt to rationally justify her normative position. But what would this look like?

This chapter explores the sorts of questions that should be on the mind of any debater researching and writing cases on a particular topic: What precisely should count as a good

reason in support of a value claim? How do we justify a moral belief beyond merely stating the view which we happen to hold? And most broadly, what are the strategies employed by moral and political philosophers in making moral arguments?

I. The Status of Intuitions in Moral Argument

A Lincoln-Douglas debate case that strings together a series of intuitions that the debater happens to have seems to us to be weak. Now, this is not to say the piecemeal appeal to intuition demonstrates nothing.[1] There can be great value to approaching a moral question by asking our gut reaction to it. It we feel moral disgust upon hearing about yet another California anti-immigrant proposition X, this is an avenue to begin asking: What are the reasons that explain my reflexive reaction? Are these reasons good? What values are underlying their justification? W.V. Quine, a great philosopher of logic of 20th century, was famous for suggesting that the consequence of a particular argument was "intuitively repugnant."[2]

> Bernard Williams, Ethics and the Limits of Philosophy (Cambridge, 1985), pp. 94-95.
>
> Intuitions … are spontaneous convictions, moderately reflective but not yet theorized, about the answer to some ethical question … They are often questions about what to do. "What should you do if you could, by switching the points, divert a runaway trolley from one line, where it would certainly kill three old men, to another line on which it would certainly kill one child and a gifted violinist?" This example is not much more fantastic than some that have been offered. But intuitions do not have answers to questions about what to do.[3]

Intuitions about ethics are an excellent "first word" in motivating one to construct an argument, but they are a lousy last word. One of John Rawls's greatest opponents in *A Theory of Justice*, beyond the utilitarians, is the "intuitionists," who carry out arguments by stating fully their view on a moral question that "seems to [them] nearly right."[4] The problem with the piece-meal appeal to intuitions is that they may arise from unjustified biases that we have or dogmatisms that we hold without question. Let's say someone holds the intuition that Lincoln-Douglas debate is a morally questionable enterprise. They may have had this view drilled into their consciousness by their parents or teachers or friends. Or they may be basing their view upon a particular anecdote they heard. Clearly, however, this intuition has no role to play in actual moral argument, besides getting us thinking. In his elegant work in applied ethics, which I

---

[1] James Griffin, *Value Judgment* (Oxford, 1996), p. 3.
[2] W.V. Quine, *From a Logical Point of View* (Cambridge, 1953).
[3] Williams's hypothetical example is meant to criticize what has become a cottage industry in moral philosophy: thinking up what are called "thought experiments" to pump our intuitions in some way. His reference to a violinist comes from the famous, or infamous, article by Judith Jarvis Thompson, "In Defense of Abortion," which I discuss later in this chapter.
[4] John Rawls, *A Theory of Justice: Revised Edition* (Harvard, 1999).

heartily recommend, Thomas Hill clarifies the status of intuitions in arguments about ethics:

> Thomas Hill, Autonomy and Self-Respect (Cambridge, 1991), pp. 2-3.
>
> In ethics a persistent source of genuine perplexity, for those who reflect with an open mind, is the conflict between strongly felt intuitive judgments about specific cases and the implications of the general moral theories that have been developed so far. Intuitions are not sacred; they need to be subjected to critical scrutiny. But moral theories are not sacred either; at best they are commendable efforts to simplify and generalize over rich and often bewildering complex variety of response to recurrent human situations. Some progress can be made by comparing existing theories and modifying them upon rational reflection on their grounds as well as their implications for concrete cases. But there is also, I think, a need to do moral philosophy "from the bottom up," i.e., from cases to theory.

Hill tells an extremely helpful and, I think attractive, story of the tug and pull between, on one hand, intuitions about issues of moral concern, and on the other, particular moral theories. But what do we make of this term "moral theory"? Cannot someone just say, "My theory is that Lincoln-Douglas debate is a misguided, monstrous activity which should cease to exist"? In order for that claim to grow into a full-fledge moral theory, the critic of debate would have to say much more about the reasons for such a claim, why they are justified, and the values that they endorse that make them so justified. But I should admit that the term "moral theory" refers to a number of different enterprises.[5] Bernard Williams suggests one of the meanings of a moral/ethical theory:[6]

> Bernard Williams, Ethics and the Limits of Philosophy (Cambridge, 1985), p. 72.
>
> What is an ethical theory? The most helpful use of that expression can best be caught by a rather complex definition. An ethical theory is a theoretical account of what ethical thought and practice are, which account either implies a general test for the correctness of basic ethical beliefs and principles or else implies that there cannot be such a test.

---

[5] For more about two major enterprises that are called "moral theory," see T.M. Scanlon's "Moral Theory: Understanding and Disagreement," from *Philosophy and Phenomenological Research*, Vol. LW, No. 2, June 1995.

[6] For the purposes of this chapter, the terms moral and ethical are used interchangeably. However, the terms have important differences that are easy to overlook. *Ethical*, which comes from the Greek word for "personal character," entails the broadest question: how are we to live? Moral has been used more narrowly (largely since Immanuel Kant) to refer to the obligations and duties we have.

John Rawls offers another description of moral theory that dwells more on the method of moral theory:

> John Rawls, A Theory of Justice: Revised Version (Harvard, 1999), p. 41.
>
> What is required [of an ethical theory] is a formulation of a set of principles which, when conjoined to our beliefs and knowledge of the circumstances, would lead us to make these judgments with their supporting reason were we to apply these principles conscientiously and intelligently.

An ethical theory, as opposed to an intuition, aims to "cast the content of an ethical outlook into a theoretical form."[7] Constructing such a theory may produce something like this:

1) **Clarifying one's overall position**, which often involves the proposal of a value and a particular conception of that value, embodied in the criterion, e.g. "justice as fairness should be our ultimate social goal."

2) **Laying out the basic premises behind the argument**, e.g. "we can agree that our race, gender, and economic background are not morally relevant categories."

3) **Demonstrating how these weaker premises lead to stronger conclusions**, e.g. "for the same reasons you agree with the above premises, you must be committed to the following claims about a just society: the state cannot permit morally arbitrary features about people influence the benefits and burden imposes on people, etc…"

4) **Restating these more robust conclusions as principles, whether of personal conduct or state action**, e.g. "The principle of fair equality of opportunity demands that people who are similarly motivated and talented have equal access to the top jobs in society."

These four components which characterize a great deal of "moral theorizing" look suspiciously like a typical Lincoln-Douglas case. That is because a well-constructed debate case presents a value position in a theoretical form. Yet a careful look at the above example reveals that there are indeed intuitions at work in nearly every moral theory.[8] The fact that they do not have great authority in moral argument does not mean that they should or, for that matter could, be banished from it. In the next section I present the "coherence method" of moral philosophy, which is the dominant form of moral reasoning in academia today. It is also, although often unconsciously so, a very common method for making arguments in Lincoln-Douglas debate rounds.

---

[7] Bernard Williams, "Ethics," from *Philosophy* ed. by A.C. Grayling (Oxford, 1995)

[8] Exceptions often cited, contentiously so, include "purists" like Immanuel Kant and R.M. Hare. A look at the chapter on Kantian Ethics in this chapter qualifies this categorization of his as a "purist." Kant, in my view, thinks that his moral philosophy *is able* to get off the ground without appealing to the commonsense moral intuitions you may or may not have, but it certainly *attempts to do so* in what I refer to as Kant's Contention 1, Subpoint A.

II. Coherence Method of Moral Reasoning

Imagine, in some auditorium, a gathering of Lincoln-Douglas Debaters, when suddenly the doors shut, and it is announced that they will not open until there is agreement on all important ethical questions. We can assume the group is resolved to reach agreement. They must only give principles that can be publicly stated. And they are in search of a process for resolving later moral conflicts that will inevitably arise among them.

> Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge, 1985), p. 72.
>
> In these circumstances, it is reasonable for them to use a method that tries to save as many of their intuitions as possible, while at the same time it produces a rational structure of principles that will help to make clear what intuitions have to be dropped and modified. An obvious way to do this is to modify theory and intuitions reciprocally until they roughly fit one another.

Williams has offered a restatement of a method that seeks to arrive at reflective equilibrium between theory and intuition. John Rawls proposed this coherence method as the basic mode of reasoning driving *A Theory of Justice*:

> John Rawls, *A Theory of Justice: Revised Version* (Harvard, 1999), p. 18.
>
> This state of affairs I refer to as reflective equilibrium. It is an equilibrium because at last our principles and judgments coincide; and it is reflective since we know to what principles our judgments conform and the premise of their derivation. At the moment everything is in order. But this equilibrium is not stable. It is liable to be upset by further examination of the conditions which should be imposed on the contract situation and by particular cases which may lead us to revise our judgments. Yet for the time being we have done what we can to render coherent and to justify our convictions of social justice.

> Thomas Nagel, "Justice, Justice, Shalt Thou Pursue," *New Republic* (October 25, 1999), pp. 26-39.
>
> Rawls takes our moral convictions about particular cases to manifest deeper principles of which we may not be explicitly conscious, but which can be uncovered through investigation of a recognizably philosophical kind. Those principles must be tests against our considered convictions. Abstract principles, whatever their a priori plausibility, must not be permitted to sweep away concrete moral judgments too easily. He has always proceeded on the assumption that the reality of moral value does not depend on its reduction to

anything else, to something more scientifically respectable, for example, and that we should not disregard the pre-theoretical voice of conscience unless good reasons can be offered that are themselves firmly based in the deliverances of moral sensibility.

We can outline the method as a three step cycle that repeats over and over again, each time bringing us a little closer to an equilibrium, a stable balance, between our intuitions and theory:

1) **Begin with Provisional Fixed Points**: We must determine those intuitions we most strongly hold, our conviction that slavery is wrong, for example. Imagine if you ranked your moral beliefs in their order of confidence. On one end of the scale are the rawest of intuition you happen to have, and in which you have little confidence. On the other end are your considered judgments. That cluster of beliefs about which you have the most confidence would fall under the rubric of "provisional fixed points."[9]

2) **Attempt to Yield a Set of Substantive Moral Principles**: From these fixed points, we ask ourselves what principles our convictions commit us to. From there we extend these principles to apply to moral cases where we may have less certainty. If this step (2) fails, we return to (1) and attempt to widen the set of provisional fixed points. If step (2) succeeds, then "so far well and good."[10]

3) **Consider Discrepancies**: "Presumably" there will be cases where we cannot consistently hold both a particular intuition/judgment.[11] What are we to do then? Rawls's answer is simple: "We can either modify the account of the initial situation or we can revise our existing judgments, for even the judgment we take provisionally as fixed points are liable to revision."[12] Once we have this (temporary) equilibrium, we are to return to (1), revising our judgments about moral cases so that the list of provisional fixed points can grow.

It's easy to overlook that fact that this moral method is behind not just *A Theory of Justice*, but much work in moral and political philosophy today. The final section of *Theory* does not summarize justice as fairness. Rawls's "Concluding Remarks on Justification" is a discussion of "the kind of argument" made in support of justice as fairness.[13] Incidentally, I think this is a very effective way of ending a case in Lincoln-Douglas debate as well.

Even if we accept the method of reflective equilibrium as the way we should proceed with moral argument, we can either put greater emphasis on particular cases that reveal to us considered judgments or on the general theory from which we are starting. In recent literature, both Ronald Dworkin and Thomas Hill have urged philosophers not to merely "plug and play" as

---

[9] See John Rawls, *A Theory of Justice: Revised Version* (Harvard, 1999), p. 18.
[10] *ibid.*
[11] In this context, Rawls used them interchangeably, as will I here.
[12] John Rawls, *A Theory of Justice: Revised Version* (Harvard, 1999), p. 18.
[13] *ibid.* 506.

we engage in applied ethics work. Rather we must demonstrate sensitivity to the complexities of particular cases without ending up as a moral relativist. Notice the similar cases made by both these theorists:

Ronald Dworkin, *Life's Dominion* (Vintage 1993), pp. 28-29.

Political philosophers, philosophers of law, social theorists, and pragmatists have in recent years produced innovative and sometimes compelling theories, which other people try to apply to social and political issues. But these theories have not yet improved the quality of public political argument as much as they might have, and that is partly because though the theories plainly do have implications for particular contemporary political controversies, they were not constructed for or in response to them.

Theory can connect with practice is two different ways or directions. It can connect from the outside in: we can construct general theories of justice or personal ethics or constitutional interpretation from general assumptions about human nature or the structure of language or thought, or from first principles or some other character, and then try to apply those general theories to concrete problems. Or we can proceed in the opposite direction, from the inside out, which is what I aim to do. We can begin with practical problems, like the question of whether the law should ever permit abortion or euthanasia, and if so in which circumstances, and then ask which general philosophical or theoretical issues we must confront in order to resolve those practical problems.

The difference is not in the level of abstraction or theoretical depth one finally reaches ... The difference is in how the abstract issues are chosen, combined, formulated. When we reason from the outside in, a practical issue must shop from among ready-made theories on the racks to see which theory asks and tries to answer questions that best fit its own dimensions. When we reason from the inside out, theories are bespoke, made for the occasion, Savile Row not Seventh Avenue. Theories homemade in that way, rather than wholesaled or imported, may be more likely to succeed in the political forum.

Thomas Hill, *Autonomy and Self-Respect* (Cambridge, 1992), p.3.

Instead of starting with an antecedently defined theory, the idea is to focus on selected examples that sharply a moral perplexity. The sort of perplexity most fruitful to examine is not, as in Sartre's famous case of the resistance worker, a tension generated by the conflict of two important but rather well-understood moral ideals. It is rather the perplexity that arises when obvious and familiar moral considerations, e.g., utility, conflict with strongly felt but as yet vaguely

articulated ideas. The job of articulating such ideals, in my opinion, is a necessary preliminary to further useful generalization in ethical theory.

I mentioned above that this emphasis on recognizing the nuances of particular cases is not an appeal to situational ethics, in which there is no way generalize beyond any particular case. Another concern is that this method of justification appeals to the "mere fact of agreement."[14] Certainly a society in which *everyone* agreed on *every* moral principle would not necessarily be a just one, for they may agree on incorrect principles of justice. Rawls responds:

John Rawls, A Theory of Justice: Revised Version (Harvard, 1999), pp. 508-509.

It is perfectly proper … that the argument for the principles of justice should proceed from some consensus. This is the nature of justification. Yet the more specific objections are correct in implying that the force of the argument depends on the feature of the consensus appealed to … Even if the argument I have offered is sound, it only shows that a finally adequate theory (if such exists) will look more like the contract view than any of the other doctrines we discussed. And even this conclusion is not proved in any strict sense.

Moral argument is not geometry, and there are no final proofs. Indeed, close attention to the method of reflective equilibrium[15] will reveal that revision and reconsideration of our basic moral conviction is built in this form of justification. This does not, Rawls is confident, lead us down the path to moral relativism, which holds that moral standards – permissible and impermissible, right and wrong, praiseworthy and blameworthy – are relative to the person holding them.

Thomas Nagel, "Justice, Justice, Shalt Thou Pursue," *New Republic* (October 25, 1999), pp. 26-39.

One of the most important elements of Rawls's outlook, his moral realism, is expressed in his first publication, a paper called "Outline of a Decision Procedure for Ethics." Moral realism is the conviction that moral questions at least sometimes have objectively correct answers, even if it is difficult to discover them. Rawls seems always to have been convinced that, whatever the difficulties of providing a semantic account of moral language or a metaphysical account of moral truth, morality was a real subject that we could think about and discuss without having to settle those intractable meta-ethical questions.

It is not inconsistent for Rawls both to advocate a form of moral justification that is always

---

[14] *Ibid.* 508.
[15] This is technically a misnomer, given that *reflective equilibrium* is the outcome of this particular method of justification.

revisable and to hold the view that there is a right and wrong answer to moral questions. For Rawls is a humble moral realist, keenly aware of the limitations of moral knowledge. This is why he proposes a theory of justice that is nothing more than a draft. It is neither proven nor purports to be the answer. Indeed Rawls is upfront that his theory admits to, and has undergone, revision. In the next section we will consider a variety of views that fit loosely under the title, "moral relativist."

III. Moral Relativism

Few Lincoln-Douglas debaters haven't encountered an opponent who ran some sort of "moral relativist" position, arguing that "What is right for one person is not necessarily right for another," or "What is right in some circumstances is not right in other circumstances." Moral views are presented as entirely personal – or even private manners. In the face of such views, debaters may be puzzled how precisely to deal with an opponent who, in an argument about the justification of value positions, is arguing against the force of value claims.

First, I want to contend that the cluster of views often called moral or ethical relativism do pose genuine concerns for Lincoln-Douglas Debate. If an opponent attacks your position because "there are no moral values anyway" or "values are just a matter of taste," it is unclear what should happen next. For that opponent has, in my view, left the activity of value debate. No reason can be given in favor of or in contention against a value. We are left with no Archimedean point on which to stand.

There is a tremendous amount of literature on what we say to someone who holds such a view. But I think that the most fruitful response is that, at least in a Lincoln-Douglas Debate, there is *no such thing as a moral relativist*. Even the opponent who stands up and refuses to argue on behalf of a value, "because there aren't any," and goes on to then dismiss the resolution, "because ethics is relative," will make normative claims. If she is claiming that we *should not be debating the resolution*, then she is committed to a normative position. Under cross-examination, she will likely to admit to a claim about value. I think Nietzsche is a good example of such an amoralist's advocate:

> Frederick Nietzsche, *The Genealogy of Morals*, translated by Walter Kaufman, ed., *On the Genealogy of Morals and Ecce Homo* (New York, 1967), preface, 3, p. 17.
>
> [U]nder what condition did man devise these value judgments good and evil? And what value do they themselves possess? Have they hitherto or furthered human prosperity? Are they a sign of distress, of impoverishment, of the degeneration of life? Or is there revealed in them, on the contrary, the plentitude, force, and will of life, its courage, certainty, future?

Nietzsche has a very strong *normative* position about society behind these critiques of everyday

morality. He is arguing against a set of values with another set of normative claims.

I want to conclude this section by considering whether the very activity of Lincoln-Douglas Debate can, perhaps unwittingly, convey to debaters that moral claims are just a matter of taste. Each round you are asked to take the position opposite of what you took the previous round. In "out rounds," a flip of the coin often decides whether you will be affirmative or negative. I think there is a temptation for the Lincoln-Douglas debater to think that can argue for any value stance. Just give them the position and they will defend it. This can, it seems obvious, breed the kind of moral relativism to which I'm referring in this section: The trivialization of moral considerations and the sense in which the "better" position is merely the one more cleverly presented.

Lincoln-Douglas debate, we should take note, is not about topics as morally obvious as: RESOLVED THAT THE MURDER OF INNOCENTS IS NOT JUSTIFIED. The topics you encounter are most often topics about which "reasonable people can disagree." I've never liked this phrase because it shuts down the conversation. Once someone throws out this comment, it seems like there is no point continuing to argue, because the disagreement isn't going anywhere.

At least values debate provides a forum in which the most morally urgent and contested issues can be considered by future leaders.

IV. Types of Moral Argument

In this final section I will offer eleven types of moral arguments by example. These quotations will be inevitably taken out of their greater context, but I have chosen them to be self-contained enough to be understandable. Each of them conveys a strategy for making innovative, and I think persuasive, normative claims. These are meant to draw you into some of the best political and moral theorists writing today, so I encourage you to follow the citations wherever they might lead you. In my view these samples model arguments for Lincoln-Douglas Debate cases and rebuttal work, and a careful analysis of their major claims, assumptions, and method of argumentation can offer ideas for framing cases in creative, yet rigorous, ways.

1) Employ theory to explain confused intuitions.

> Amartya Sen, *Inequality Reexamined* (Harvard 1992), pp. 114-115.
>
> The issue of food deprivation in rich America ... raises questions of profound importance …. Surprise is sometimes expressed at the fact that there could be any actual *hunger* in a country as rich as the United States, where even the poorest groups tend to have much higher incomes than the middle-classes in many poorer countries who may not be particularly bothered by hunger as such. To some extent the difference may be due to the fact that money buys less of some types of commodities in the richer countries. But even after corrections are

made for these price differences, the paradoxical feature is still retained. Also, as it happens, food is not one of the items that are typically very much cheaper in the poorer countries than in the United States.

In explaining the apparent paradox, the capability perspective can help in two different ways. First, hunger and undernutrition are related both to food intake and to the ability to make nutritive use of that intake. The latter is deeply affected by general health conditions, and that in turn depends much on communal health care and public health provisions. This is precisely where the civic problems of health delivery and inequalities in health care can precipitate capability failures in health and nutrition even when person incomes are not that low in international standards.

Second, being poor in a rich society itself is a capability handicap ... *Relative* deprivation in the space of *incomes* can yield *absolute* deprivation in the space of *capabilities*. In a country that is generally rich, more income may be needed to buy enough commodities to achieve the *same social functioning*, such as "appearing in public without shame." The same applies to the capability of "taking part in the life of the community." These general social functioning impose commodity requirements that vary with what *others* in the community standardly have.

2) Draw upon material from the world not just to supply your paper with empirical facts, but also with reasons.

Amy Guttman & Dennis Thompson, *Democracy and Disagreement* (Harvard, 1996), p. 246.

Here is the testimony of three surrogate mothers who value the experience for reasons that even those who would criticize their decision should not completely dismiss:

> • I'm not going to cure cancer or become Mother Teresa, but a baby is one thing I can sort of give back, something I can give to someone who couldn't have it any other way.

> • I think being a surrogate mother has made me a better person. Never a day goes by that I don't thank the Lord for my own kids.

> • I'm an adult and I take responsibility for my actions. Being a surrogate mother never seemed strange or wrong to me. In fact, to not help somebody would have been wrong.

The testimony of these and other women is not decisive, but it casts some doubt on the claim that all women enter into surrogacy contracts involuntarily or against their better judgment ... But advocates of prohibition [of contract pregnancies] can argue that we should look behind what the women say and consider the circumstances in which they say it. Perhaps women are not, strictly speaking, coerced into signing surrogacy contracts, but most make their decisions under conditions in which the alternative of surrogacy seems irresistible.

3) Preempt objections to your position.

John Roemer, "Egalitarianism and Responsibility," *Boston Review*, Summer 1993.

The conception of equality-of-opportunity that I have described is not the conventional view. It appears to support a far more egalitarian society than we now have in the United States. No doubt it will generate considerable disagreement. To forestall some of that, I will respond here to a few likely objections.

One criticism – suggested in the work of Ronald Dworkin – may be that the distinction between what a person is and is not responsible for is not the same as the distinction between what she has and has no control over. I have in fact assumed that those two distinctions are, by definition, the same. Dworkin's view may seem paradoxical; I shall try to make it less so by example. Suppose a child, who grows up in a poor family, whose parents lack education beyond primary school, who is exposed to no books in the home or any kind of high culture, develops preferences in which education has a low value. He does not care to become educated, and feels education will not make his life more successful. He identifies with these preferences, views them as intrinsic to who he is. Then Dworkin, I think, would have to say that such a child does not require any social compensation for the low level of education he acquires, and the consequent low income he earns.

Dworkin places tastes with which a person identifies, and the choices that follow from them, within the realm of personal responsibility, regardless of whether those tastes were formed or induced by factors over which the person had no control. I, on the other hand, do not make the distinction between autonomous and non-autonomous choice depend on what the person thinks, but rather on what society deems to be within or beyond a person's control. Thus, the unfortunate child I have just described, or the adult that child becomes, would be due social compensation under my notion of equal opportunity for income, but not under Dworkin's.

4) Acknowledge what is motivating your position.

> Joseph Carens, "Immigration and the Welfare State," *Democracy and the Welfare State* (Princeton, 1988), pp. 207-208.
>
> "There are no frontiers for hunger. You have the right to look for opportunity wherever you can." These are the words of Angel, a Mexican peasant who illegally entered the United States, worked for a few years, and was caught and deported. He was explaining to an American why he intended to return (illegally) again. Angel was making a moral claim about human rights. He was claiming that the poverty and lack of opportunity in Mexico have him a moral right to seek work in the United States or anyplace else, and that the United States has no moral justification for excluding him. There are millions of Angels in the world – needy people who want to find decent conditions of life for themselves and their families, who see no real prospect of doing so in their native lands, and who consequently seek to immigrate to the United States and other rich Western countries.
>
> Do we have any answer to Angel? Is the United States justified in keeping him out? Leaving aside the question of whether our Angel is likely to dissuade Angel from coming. Is there any answer that is reasonable, an answer that persuades us that exclusion is morally justifiable? In most debates over immigration policy, Angel's voice is not even heard. The conventional moral view is that a country is justified in restricting immigration whenever it serves the national interest to do so.

5) Give reasons from your intuitions that an argument is "implausible."

> T.M. Scanlon, "A Good Start: Symposium on Social Equality and Personal Responsibility," *Boston Review*, Summer 1993.
>
> But when are people responsible for these decisions, and in what degree? Roemer proposes that we answer this question as follows. First we are to list those factors influencing decisions of the kind in question (say a decision whether or not to smoke) that we regard as beyond an agent's control (factors such as age, sex, race, social class, etc.). People alike in these factors are said to belong to the same "type," and a person's degree of responsibility (the amount of self-control and discipline that he or she exercised) is said to be reflected by their position in the distribution within their type: if almost everyone in Andrea's type smoked more years than she did, then she is less responsible for smoking than George, who smoked more than almost anyone in his type. In the limit, Roemer says, "if all 60 year old steelworkers smoked for thirty years, I would say that the choice of "not smoking" was not accessible to 60 year old steelworkers:

as a 60 year old steelworker, one would have had effectively no opportunity except to smoke for thirty years."

As a general claim about responsibility, this does not seem very plausible. If all 70 year old citizens of Wisconsin with incomes over $150,000 per year consistently vote for candidates who have taken a position favorable to them on Social Security and Medicare, we would not normally conclude, on this basis alone, that they had "effectively no opportunity" but to do so. When factors "beyond their control" give people in a given class strong reasons for acting a certain way, a uniform pattern behavior may result, but these people may still be fully responsible for what they do. We need to be careful here, however, not to mislead ourselves by failing to distinguish between different contrasts that the phrase "should be held responsible for" can be used to mark. On the one hand, to say that an agent can be held responsible for an action may be to say that he or she is properly subject to praise or blame for performing it. It is this sense that is called to mind by the contrast between results that are due to an agent's "autonomous choice" and those that are due to factors "beyond his control." The citizens of Wisconsin in my example are clearly responsible in this sense for their voting behavior, and this makes it reasonable to argue about whether that behavior shows them to be greedy or just reasonably prudent.

6) Consider the limits of hypothetical examples that are not taken from real world experiences.

Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy and Public Affairs*, Vol. 1, No. 1, 1971.

Let me ask you to imagine this. You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you – we would never have permitted it if we had known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you have to accede to it? What if it were not nine months, but nine years? Or longer still?

7) Consider alternative positions to common debates. Avoid simple dichotomies.

Thomas Hill, "The Message of Affirmative Action," from *Autonomy and Self-Respect* (Cambridge, 1992), pp. 189-193.

Affirmative action programs remain controversial, I suspect, partly because of the familiar arguments for or against them start from significantly difference moral perspectives. Thus I want to step back for a while from the details of debate about particular program and give attention to the moral viewpoints presupposed in difference types of argument. My aim, more specifically, is to compare the "messages" expressed when affirmative action is defended from different moral perspectives. Exclusively forward-looking (for example, utilitarian) arguments, I suggest, tend to express the wrong message, but this is also true of moral outlook that focuses exclusively on backward-looking (for example, reparation-based) arguments. However, a moral outlook that focuses on cross-temporal narrative values (such as mutually respectful social relations) suggests a more appropriate account of what affirmation action should try to express. Assessment of the message, admittedly, is only one aspect of a complex issue, but it is a relatively neglected one.

8) Acknowledge the difficulty of theorizing in a way that is genuinely action guiding.

Norman Daniels, *Justice and Justification*, (Cambridge, 1996) pp. 339-349.

When I began thinking about justice and health-care delivery, having spent much of the 1970s working on the problems in the general theory of justice, I thought it should be easy to "apply" to health care principles like those argued for by Rawls. I was in the grip of the false picture of "applied ethics." Rawls's principles were developed under special, idealizing assumptions: that fully functional people should specify principles of fair cooperation. No one was ill or disabled. I was immediately stymied. Should health care be governed by a principle aimed at making those who were worst off maximally well off? Or did Rawls's theory need to add a new primary social good, heath care? Or would some other principle do the job? Looking from the theory "down" to the system of delivery, it was quite unclear what "applying" the principles really meant.

I had to reverse directions to make any progress. I began to think directly about health care and the different kinds of things it does for us. I had to answer questions about why we might think some of those functions had special moral importance. I had to think about cases in which we felt that assisting people with medical services was an obligation an when we thought assisting them was no. Gradually, I focused on the generalization that disease and disability impairs the range of opportunities open to us, whereas health-care services that we think we

are obliged to offer to people protects that range of opportunities. But even here the account of fair equality of opportunity had to be broadened from its focus on access to jobs and offices. To extend Rawls's theory meant not simply plugging in the facts but modifying the theory in modest and reasonable ways. My procedures required developing an account of what health care does for us and its importance that was sensitive to the wide variety of things health care does and captured many of our intuitive judgments and practices, such as insurance coverage. Only then did it become clear how to connect general principles – appropriately modified – to the world of institutions.

9) Test your theorizing against your experience in the field.

Norman Daniels, *Justice and Justification*, (Cambridge, 1996) pp. 347.

Once I had developed an account of justice for health care that appealed to the fair equality of opportunity principles, I thought that principles would actually be able to guide us in some detail in designing institutions that allocated in some detail in designing institutions that allocated health-care resources equitably. I thought it would tell us how, under resource constraints, we should limits access to beneficial services. I have since concluded that the gap between principles and guidance in institutional design in quite wide and that we do not yet know how to fill it. Again, it was by examining actual cases of rationing decisions that it becomes apparent general principles fell short of offering adequate guidance.

One lesson from these examples is that work in ethical theory is enriched in deep ways by forcing the question of how the theory guides action into very specific areas of practice. It is much too easy for "pure" theory to think it offers guidance when it does not. We discover the problem only when we test theory against practice. To put the point contentiously, "applied ethics" makes an essential contribution to "ethical theory." Put more clearly, we fail to do our best work at either level if we do not see them as part of the same project.

10) Clarify whether your criticism in an internal or external criticism – or some combination. The former types of critique argue that a conclusion may not follow from the proposed theoretical axioms. The latter present reasons not part of a theory to criticize that theory.

A) Examples of an Internal Criticism

Thomas Pogge, *Realizing Rawls* (Cornell, 1989), pp. 211-218

Rawls recognizes the cosmopolitan character of his theory by sketching, at least, how his criterion for assessing the institutions of a national society might be complemented by additional principles of justice governing international relations. This brief outline jars, however, with central commitments of his theory, chiefly his focus on the basic structure and his conception of all human beings as free and equal moral persons. These commitments would instead, I will argue, lead one to abandon Rawls's primary emphasis on domestic institutions in favor of globalizing his entire conception of justice.

Susan Okin, Justice, *Gender, and the Family* (Basic Books, 1989), p. 90.

There is strikingly little indication, throughout most of *A Theory of Justice*, that the modern liberal society to which the principles of justice are to be applied is deeply and pervasively gender-structured. Thus an ambiguity runs throughout his work, which is continually noticeable to anyone reading it from a feminist perspective. On the one hand, as I shall argue, a consistent and wholehearted application of Rawls's liberal principles of justice can lead us to challenge fundamentally the gender system of our society. On the other hand, in his own account of his theory, this challenge is barely hinted at, much less developed. After critiquing Rawls's theory for its neglect of gender, I shall ask two related questions: What effects does a feminist reading of Rawls have on some of his fundamental ideas (particularly those most attacked by critics); and what undeveloped potential does the theory have for feminist critique, and in particular for our attempts to answer the question, Can justice co-exist with gender?

B) Examples of External Criticism

Dennis Thompson, "Representatives in the Welfare State," from *Democracy and the Welfare State*, p. 131.

If the welfare state is to be democratic, the legislator who makes its policies must be responsible to the citizens affected by them. Responsibility requires that legislators explain their actions to the citizens they represent. Giving reasons is part of what being responsible means, and part of what being reelected requires. But the nature of welfare itself poses a dilemma for democratic responsibility. To justify decisions about welfare, representatives must consider the preferences of citizens. But those preferences at any particular time are not adequate ground for a justification of welfare policy. Orthodox theories of representation provide no way to cope with this problem; a satisfactory theory, must take a different

approach. Instead of looking for justifications solely in the preferences of citizens at a particular time, we should look at the legislative process in which the justifications are made.

11) Consider drawing upon non-philosophical sources when making an argument.

Avishai Margalit, *The Decent Society* (Harvard, 1996), pp. 226-227.

Humiliation is not necessarily the outcome of an intent to humiliate. It can be the outcome of life conditions brought about by institutions or individuals. For example, a recession that leads to unemployment may well be the planned result of an anti-inflationary monetary policy, but it may just as well be – and in most cases it – an unintended outcome of economic behavior. A welfare society is supposed to ameliorate not only intentional humiliation but also degrading life conditions, such as unemployment, that are not generally the result of planning.

Not every sort of human distress is a cause of humiliation. The question is how we can judge when the life conditions of human distress are to be considered humiliating. Poverty is the prototypical case for testing the problem of when to call certain states of affairs or life conditions humiliating – states of affairs that are the result of human action, but without the intention to humiliate anyone. One focused question, then, is whether poverty as such is humiliating.

The question is not whether poor people feel humiliated, but whether they have a sound reason for feeling that way. Harsh poverty may dull the feeling of degradation, but that would no eliminate the justification for it. The way I have chosen to discuss this question is through a poem by Hayyim Nahman Bialik. A poem is not an argument, but it can be turned into one.

V. Conclusion

These eleven categories of argumentative strategies in value debates, though roughly drawn, demonstrate the arsenal of both technique and arguments from which you can choose. I can't think of many questions more compelling than how we should conduct our lives and how the state ought to treat its citizens. The questions of moral and political philosophy are unavoidable. In Lincoln-Douglas debate you get to imagine the moral future, and think of ways for us to get there.

Peter Singer, "Famine, Affluence, and Morality," from Moral Philosophy, ed. by George Sher (Harcourt Brace, 1996), p. 704.

Discussion, though, is not enough. What is the point of relating philosophy to public (and personal) affairs if we do not take our conclusions seriously?[16] In this instance, taking our conclusion seriously means acting upon it. The philosopher will not find it any easier than anyone else to alter his attitudes and way of life to the extent that, if I am right, is involved in doing everything that we ought to be doing. At the very least, though, on can make a start. The philosopher who does so will have to sacrifice some benefits of a consumer society, but he can find compensation in the satisfaction of a way of life in which theory and practice, if not yet in harmony, are at least coming together.

---

[16] This claim by Singer has been called into question lately when he acted privately in ways that seem opposed to his controversial consequentialist views about our obligations to the poor abroad. In short, Singer was reported to have spent thousands of dollars to pay for medical treatment of his mother, when it is precisely such expensive procedures near the end at life that Singer argues in his books to be unjustified. Instead, he argues, such money spent on medical treatment should go to the one-third of the world's population who live in a state of immiseration.

Consequentialism
By Jake Nebel

In this essay, I discuss consequentialist frameworks in LD debate. Consequentialism, roughly, is the idea that our moral obligations depend only on consequences. There are many different consequentialist views, and there is a lot of disagreement between consequentialists about how *consequences determine our moral obligations, and* what kinds *of consequences are morally relevant. This essay contains four sections. In the first, I explain what consequentialism is in more detail, and I give some examples of different consequentialist views. Throughout this section, I explain how they might serve as frameworks in LD. In the next section, I discuss the strategic costs and benefits of using consequentialist frameworks. In the third section, I cover a few arguments for and against consequentialism.*

1. What is Consequentialism?

In debate, consequentialism is often reflected in the maxim, "The ends justify the means." This kind of view says that it's morally okay to do what may seem morally wrong in order to promote a better consequence. While this maxim is a common feature of consequentialist reasoning, consequentialism is, in fact, much broader than that.

In order to explain the thesis of consequentialism, let me distinguish between two kinds of concepts relevant to morality: the deontic and the evaluative. *Deontic* facts are facts about our obligations, using concepts like "ought," "requirement," "prohibition," "wrong," and "right." The claim that it is morally wrong to kill babies is a deontic claim. *Evaluative* facts are facts about the value of states of affairs (i.e., outcomes, consequences, or how the world is), using concepts like "better," "worse," "good," "bad," "best," and "worst." The claim that a world with lots of unnecessary suffering is worse than a world with no unnecessary suffering is an evaluative claim.

The thesis of consequentialism is that the deontic facts are fixed, or determined, by the evaluative facts: once you know how certain outcomes compare with respect to their value (how good they are), then you know everything you need to figure out our moral obligations.

Deontology, roughly, is the non-consequentialist view that the deontic facts (our moral obligations) are *not* fixed by the evaluative facts about outcomes: the deontic facts are, to some extent, independent of the evaluative facts. Most (but not all) deontologists agree that consequences matter, but deny that consequences are *all that matters*. The right is independent of the good.

In this section, I go through two key questions that distinguish different consequentialist views. There are many such questions, but I'll just examine two that are particularly relevant to LD.

1.1   What's the Good?

The simplest version of consequentialism says that there is only one thing that makes an outcome good, and that we ought morally to promote that thing. *Utilitarians* believe that the good is utility (happiness or wellbeing). Hedonistic utilitarians believe that happiness is just pleasure, which is a state of mind. So what you ought morally to do is to increase the amount of pleasure in the world. Preference utilitarians believe that happiness means satisfying your desires. So what you ought morally to do is to satisfy as many preferences as possible.

Utilitarianism is a common framework in LD because it makes it easy to compare impacts that involve human suffering and death. From a utilitarian perspective, whether we should affirm or negate the resolution depends only on how the resolution affects the amount of happiness in the world. So, if you can show that the resolution saves lives or prevents suffering, then you win within utilitarianism.

But there are more nuanced views about the good(s) that we ought to promote. These more nuanced views are worth considering because, first, they are often more plausible than utilitarianism, and second, they are strategic frameworks for different positions.

The first question to ask yourself is whether there is only one thing that is intrinsically good (that is, valuable in itself, not because of what it leads to). If so, then your consequentialist standard is promoting *that thing*. What are examples of possible goods other than human happiness? Some options are equality (do whatever best decreases the amount of inequality in the world), fairness (do whatever maximizes the extent to which people get what they deserve), freedom (do whatever best prevents invasions of freedom), dignity (do whatever best promotes respect among persons), and virtue (do whatever best cultivates good character among citizens)…

There are a lot of possibilities for value. You can derive a consequentialist framework from whatever theory of the good is presupposed by your position. To do so, just figure out the common impact to your contention arguments, and specify that impact in a consequentialist standard ("promoting/increasing/maximizing/decreasing/preventing X").

The large number of possibilities for value may make you suspicious of whether there is, in fact, only one good. Most people are pluralists. Pluralistic consequentialism says that there is more than one kind of thing that's intrinsically valuable, and we ought to promote all those kinds of things. This view may avoid some of the objections to more narrow forms of consequentialism. It is also a strategic framework if your position involves many different kinds of impacts: you maintain flexibility to weigh those impacts in the rebuttal, so you have an edge over your opponent. This kind of framework may also take less time to establish, since you don't have to argue for a single conception of the good.

1.2 Act vs. Rule

The simplest version of consequentialism directly assesses the consequences of our acts: an act is right only when it makes things go best. But some consequentialists believe that Act Consequentialism fails to capture our moral intuitions. (I'll explain why in the third section, on objections to consequentialism.) The most popular alternative to Act Consequentialism is Rule Consequentialism, which states that you ought to follow the *rules* or *principles* whose being accepted (or internalized) in a universal moral code would make things go best.

In a common thought experiment, suppose you are a surgeon who can save five lives by killing one innocent person and distributing his or her organs into the five other bodies. If we consider this act on its own, it may be the case that this murderous organ transplant is the act with the best consequences. But Rule Consequentialists can argue that this act violates a rule prohibiting murder by medical professionals, and that this rule has the best consequences.

This kind of strategy is useful in LD for two main reasons. First, Rule Consequentialism may avoid some of the best objections to Act Consequentialism (although, as you will find in research, Rule Consequentialism faces its own objections). Second, you can use Rule Consequentialism as a framework to establish a more specific standard. You can first argue for Rule Consequentialism, and then argue for a particular rule to serve as the standard. Your standards analysis would have to show that this rule (your standard) makes things go best. You can then apply that rule as a standard for evaluating the impacts of your contention.

This second strategy is very useful in a few kinds of situations. Sometimes the topic literature appeals to certain moral standards that are hard to justify by evidence or argument — e.g., certain requirements of self-defense, or other intuitive principles of common-sense morality. Rule Consequentialism is often a good way to justify those principles. (Not to imply that intuitive principles always need further justification; but such justification is often useful in a debate.) Another situation where Rule Consequentialism is a handy way to justify a standard is when you have a non-consequentialist standard and want to hedge against a consequentialist opponent. You can include Rule Consequentialists arguments to set up a rebuttal strategy where you show that your standard is required by the most plausible version of consequentialism; so even if your opponent wins that consequentialism is true, we still prefer your standard.

There are many more questions that distinguish consequentialist views, but I believe that the theory of value (utilitarianism vs. pluralism) and the object of evaluation (act vs. rule) are the most important live issues in consequentialist debates in LD. These other questions are worth exploring, and a good place to start is the Stanford Encyclopedia of Philosophy entry on consequentialism.

2. The Strategic Costs and Benefits of Consequentialism

In this section, I discuss some considerations that you should weigh when deciding whether to run a consequentialist framework.

2.1   Turns

One reason why some debaters tend to avoid consequentialism is that consequentialist standards are clearly turnable. A turn is a reason why the other side better promotes the good, or achieves your standard. Because consequentialism offers the simple injunction to promote the good, it is clear that your opponent wins if s/he does that better.

By contrast, deontological standards only require us to honor or respect some requirement — e.g., not to violate anyone's rights. Turning a case with a deontological standard is usually possible, but more difficult. In most cases, you would have to show that your side doesn't violate the standard, and that your opponent's does. This kind of all-or-nothing burden makes turns more difficult, so the deontological standard may seem safer. Another reason why deontological cases are harder to turn is that impacting to the standard may be complex. It may, for example, require you to discuss the actor's intentions. Such factors make turns more complicated than they are for consequentialist standards.

How should you assess this cost?

First, you should evaluate whether the turns on the other side are as good as your own arguments. This evaluation requires a lot of research, but it may turn out that there is very little evidence for turns on the other side, so the fact that your position is turnable is a small cost.

Second, you should assess your rebuttal flexibility for weighing different impacts to your standard. Suppose you have a consequentialist standard, and three kinds of impacts to your standard. Your opponent may be able to argue for turns that control those impacts, but you don't always have to answer all of the turns. You can often say that one impact is most important, and weigh that impact against the others. You then just have to do a good job of controlling that impact by beating the turns to that one argument. You can prepare different weighing stories for different scenarios, so you are extremely flexible about which impact you want to sell. This strategy forces your opponent to waste time and gives you an edge in the late rebuttals.

Third, you should compare the argumentative and theoretical plausibility of the non-consequentialist standards you might run instead. If you think the arguments for your non-consequentialist standard are much stronger than the arguments for consequentialism, then you should go with the non-consequentialist standard. But if you believe the opposite, then turns shouldn't scare you away from consequentialism onto (what you believe to be) a weaker argument. The better your argument, the more likely you are to win.

A related issue is theoretical plausibility. By theory, I mean the rules for debate, including principles of fairness. Many debaters and judges believe that an argument that can't be turned is unfair because it doesn't offer equal ground to both sides. Whether or not that view is right, you should consider the risk that your opponents run theory.

2.2 Wide Variety of Impacts

Consequentialists (including utilitarians) have to weigh a wide variety of impacts in order to determine which acts are right. This feature is especially true of pluralistic consequentialism: you can have impacts that appeal to different goods. But even with a utilitarian standard, you can link many different aspects of the topic into a utility calculation.

On the one hand, this aspect is a strategic advantage of consequentialist frameworks. It means that you can include many impacts in your case, all of which count as offense to your standard, and then maintain the flexibility to decide which kind of impact to weigh most in the rebuttal.

On the other hand, flexibility can be a vulnerability, too. If you can link a wide variety of impacts to your standard, then your opponent can do that too. This means that consequentialism, in its broader, pluralistic flavors, an ineffective strategy if you want to preclude your opponent's impacts. If you've done a lot of topical research, however, then you may like the opportunity to turn your opponent's case and win with your own, all through your standard. If you have a highly preclusive standard, then your opponent will correctly spend a lot of time answering your standard, leaving you with few options in the later rebuttals. For that reason, weighing is often more strategic than relying on preclusion, if you're prepared.

Another reason for caution is that your opponent's arguments may have a bigger impact than yours. If your impacts seem "soft" or small, and your opponent's are gigantic, then your opponent may have an easier story to tell for why a utilitarian should vote for them.

There are at least two ways to address the worry of your opponents having bigger impacts. The first way is to research more so that you control the big-impact scenarios. Ideally, you want to be relatively sure that your opponents' impacts won't be much bigger than yours. The second way is to resist the idea that the biggest impact always wins. There are good reasons for why we should prioritize smaller impacts whose likelihoods we can estimate with a reasonable degree of confidence, rather than huge impacts where we don't really know which side is more likely to cause them. For example, the claim that one side leads to nuclear war appeals to a huge impact, but our evidence for that causal claim may be very rough, so our confidence in that estimate may be low. So, perhaps, we should prioritize smaller impacts where we are more confident in our predictions and estimates about what is likely to happen.

2.3   Topical Relevance

Consequentialism may be more or less strategic on different topics. The best way to figure this out is through research. Once you've read plenty of articles on the topic, ask yourself whether the strongest positions in the literature appeal to consequentialist views. If the answer is no, then consequentialism might be a weak approach to the topic and inhibit your ability to make the best arguments for or against the resolution.

For example, topics about what the government should do are often amenable to consequentialist analysis. This is because many authors on such topics want to know which governmental policy has the best consequences, so even if an author usually opposes the most aggressive views like Act Utilitarianism, s/he may use a consequentialist standard for the resolution. But, on other topics in applied ethics, philosophers want to appeal to other philosophers who disagree widely on questions of broader ethical theory. So their arguments may appeal to moral principles to which even non-consequentialists agree. In that kind of case, a consequentialist framework doesn't get you much further than the shared non-consequentialist standard.

2.4   Argumentative Plausibility

As I mentioned above, the most important question is which framework you think is correct on the basis of the arguments. It is crucial to be open-minded when assessing the plausibility of a moral framework, so you should do a significant amount of reading and thinking before coming to and applying any conclusions. But remember that you are going to have to defend your arguments in cross-examination and in the rebuttals, and you won't win many rounds with a bad argument (or, an argument that you think is bad). So follow the arguments, not just the conclusions.

To help you do that, I offer some arguments for and against consequentialism in the next section.

3. Arguments For/Against Consequentialism

In this section, I briefly discuss two areas of dispute between consequentialists and their critics. While there are many arguments in the literature, these two areas contain issues that will help you get to the heart of the framework debate.

3.1   Agent-Neutrality

Consequentialism is (generally) an *agent-neutral* theory because it gives a common aim to everyone: to promote the good. By contrast, many of the obligations of common-sense morality are *agent-relative*: each of us has different aims. For example, one agent-relative obligation is to do what is best for your family.

Some philosophers, like Bernard Williams, argue that agent-neutral theories like consequentialism are alienating. If I have to choose between saving my mother's life and saving a stranger's life, Williams argues that it would be "one thought too many" for me to try to predict and weigh the consequences of each. I should save my mother without hesitation.

One way around this implication is to distinguish between consequentialism as a theory of morally right conduct and as a decision procedure. We can say that consequentialism determines which acts are right, but it's not necessarily the best guide to deciding what to do while deliberating. In other words, consequentialism might tell us not to *think* like consequentialists, because that would be for the worse. Some call this a form of "esoteric" or self-effacing morality. It is controversial whether consequentialism, as a moral theory, survives with that revision.

Other philosophers believe that agent-neutrality is a virtue of consequentialism. Derek Parfit, for instance, argues that agent-relative theories are self-defeating in situations like the Prisoner's Dilemma: Suppose two suspects are arrested by the police and each is told that, if he testifies for the prosecution against the other, and if the other remains silent, then he will be let free, while the silent accomplice receives a twelve-year sentence. If neither suspect betrays the other, each will serve a two-year sentence, but if both suspects betray each other, each receives a ten-year sentence. If each looks out only for number-one, then both are worse off. We can construct similar examples for other agent-relative concerns, like special concern for one's own family. Since consequentialism is an agent-neutral theory, Parfit believes that consequentialism avoids such dilemmas entirely.

3.2   Aggregation

Consequentialism is (generally) an aggregationist theory because it compiles all the harms and benefits across people and weighs them to decide what's best overall. Anti-aggregationists argue that greater numbers of harms and benefits across people are not morally relevant. Sometimes they claim that the impartial goodness of an outcome is incoherent: things can only be good *for* people, not good overall. Robert Nozick, for example, rejects aggregation because it overlooks the *separateness of persons*. Each of us has our own personal perspective, and it's wrong to sacrifice one person for the sake of others.

One way to resist anti-aggregationism is to deny the conclusion. The most common response to this critique of consequentialism is to claim that we must make tradeoffs among persons, so we need an aggregationist theory in order to help navigate such situations. A similar response to anti-aggregationism appeals to the "paradox of deontological constraints." The idea is that it cannot be rational to obey an absolute rule against violating rights if doing so results in a greater number of rights violations. The paradox is that deontology says not to violate rights, but it doesn't let us prevent other people from violating rights.

In order to explain this paradox, deontologists can appeal to a distinction between *doing* something wrong and *allowing* some harm. This distinction is known as the Doctrine of Doing and Allowing, or the Act/Omission Distinction. If this distinction is sound, then deontologists can claim that letting someone die is not wrong or (more plausibly) not bad enough to justify killing in order to prevent a greater number of deaths. This distinction is crucial for the framework debate: the disagreement between consequentialists and deontologists may boil down, to a great extent, to the strength and moral relevance of this distinction.

Conclusion

This essay has defined and delineated between several varieties of consequentialism. It then described some of the strategic considerations debaters should evaluate when determining whether to deploy consequentialism in their case positions, and arguments for and against consequentialism. To delve into the details, here are some authors whose work you might consider reading.

Consequentialism Authors	
Utilitarians:	John Stuart Mill, Jeremy Bentham, Henry Sidgwick, Peter Singer, Shelly Kagan
Rule Consequentialists:	Brad Hooker, Tim Mulgan, Richard Brandt
Pluralistic Consequentialists:	Derek Parfit, Philip Pettit, Frank Jackson, Michael Smith
Critics of Consequentialism:	Bernard Williams, Judith Thomson, Samuel Scheffler, Robert Nozick, John Taurek

Kantian Ethics

Dr. Ryan W. Davis

This article describes the foundations of Kantian Ethics, delineates three ways of conceptualizing the substantive requirements of Kantian Ethics, and discusses four strategies for supporting Kantian Ethics. It concludes by offering three thoughts on how debaters can improve the way they utilize Kantian arguments.

Immanuel Kant believed that morally right actions were also always rational and free. The aspiration of his *Groundwork for the Metaphysics of Morals*, was (in part) to show that morality, rationality, and freedom all go together. Many philosophers—and more recently, many debaters—have continued to find the Kantian approach to morality appealing. We want to think that being moral is rational: that those who choose to act morally are not naïve or dupes. We also want to think that morality makes us free: that being moral is not a kind of interference or punishment on our lives. We like to think that rationality and freedom go together too.

In this overview of Kantian ethical theory, I will describe a few popular ways in which Kantian arguments are understood by philosophers today. Then I'll try to say how this theory is commonly used in debate, and also how it might be used. I will start by offering an overview of the content of Kantian ethical theory, and then I will outline different strategies for grounding Kantian theory—that is, saying what makes Kantian theory true. Then I will then make a few notes about how this theory might be put to different uses in debate.

§1 Content of Kantian Ethics

All debaters know that Kant believed in a 'supreme principle of practical reason,' which he called the categorical imperative. It is likewise well-known that the categorical imperative differs from what called the hypothetical imperative. A hypothetical imperative instructs you to take the means to an end that you happen to contingently have. If you want to eat ice cream and you know that going to the ice cream shop is a means to eating ice cream, then the hypothetical imperative would instruct you to go to the ice cream shop. The categorical imperative issues commands that do not depend on any end you might happen to have. You ought to avoid harming other persons regardless of what you want to do.

Kant provides several versions of the categorical imperative.[17] The two most famous are the formula of universal law, and the formula of humanity. The first holds:

---

[17] Immanuel Kant. *Practical Philosophy*. Paul Guyer and Allen Wood [eds.] (trans. Mary Gregor). Cambridge: Cambridge University Press, 1996. Most of my discussion of Kant is informed by his *Groundwork for the Metaphysics of Morals*.

> Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction.

And the second:

> Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end.

These two principles sound different, but Kant is thought to have supposed that they came to the same thing. How these principles work is very controversial, but here is the basic idea. First about universal law: If you have two beliefs that contradict each other, you are making a rational mistake. Kant's thought is that you can have contradictory attitudes not just in your beliefs about what is true, but also in your maxims. That is also a rational mistake, but because it is about your actions, it is also a moral mistake. And, Kant believed, it also makes you un-free.

But how could having contradictory attitudes undermine your freedom? It will help to be clearer about how a violation in the universal law could also be a contradiction. The formula of the universal law requires acting on a maxim that could be held as a universal law. A maxim is something like an intention, or a plan about what you will do in the future. Because intentions resemble plans for the future, they involve belief-like attitudes. If you intend to go to a tournament next weekend, it would be strange if you then said you believed you would not be there. So your intention to perform any action seems at least to presuppose that you do not disbelieve that you will perform the action. So it is possible to have some other attitude that contradicts your intention. David Velleman has given an example of this that has lately been popularized among debaters.[18] Velleman asks you to imagine a case in which you make a resolution to swim every morning. A resolution is a kind of intention that persists over the long term.[19] After swimming every morning for a week or two, you have a day where you really don't want to get out of bed to satisfy your exercise regimen. Suppose you don't reconsider your resolution to swim every morning, but you decide against swimming that particular morning. In this case, it seems like your decision not to swim contradicts your resolution to swim every day.

Velleman thinks that violating the formula of universal law is like this. He points out that you might feel guilty if you break your resolution. You might also feel less free. Our ability to make resolutions expands the options available to us. Making long-term resolutions allows you to control the course of your life in a way that you could not if you were limited to short-range plans. So utilizing your capacity for making commitments like the swimming exercise regimen makes you freer than you might otherwise be. Failing to honor such commitments can then be seen as one way of compromising your freedom.

---

[18] J. David Velleman, "Introduction to Kantian Ethics," in *Self to Self* (Cambridge: Cambridge University Press, 2004).
[19] See Richard Holton, "How is Strength of Will Possible?" in Sarah Stroud and Christine Tappolet [eds.] *Weakness of Will and Practical Irrationality* (Oxford: Oxford University Press, 2003).

An interesting aspect of the formula of universal law is that it focuses morality—in the first instance anyway—on your relationship with yourself. In this way the Kantian view is different from other moral theories, in which morality is centrally about how we relate to each other.[20] Kantians since Kant himself have hoped that the formula of universal law could also tell us something about our moral relations with other persons. In Kant's famous example, if you lie to someone to get them to give you money, you are treating the same consideration (the claim that you would pay them back) as both a reason for action (because you want the other person to act on it) and not a reason for action (because you are intending to not act on it). Holding inconsistent intentions in your relationships with other persons in this way deprives you of the possibility of genuinely cooperative relationships with them. Such relationships, according to some Kantians, also create meaningful opportunities we would otherwise not have, and the availability of such options also makes us freer. As before, one impact to violating the categorical imperative is that it undermines your own freedom. The other impact is that you do something wrong, which means that you have all-things-considered reason to *not* violate the categorical imperative.

With this last move, we can start to see why Kant might have thought that the formula of the universal law and the formula of humanity were really just different ways of saying the same thing. Lying to another person is a way in which we sometimes use others as a kind of tool to get what we want. If you tell your parents you are going to borrow the car to run errands— when really you are planning on going out with friends—then you are treating your parents as a means of getting what you want rather than as persons who can consider and respond to reasons. So in this case, there does seem to be a relationship between violating the first formulation of the categorical imperative and violating the second. At least sometimes, when you violate the universal law, you also treat others merely as a means and not as an in themselves.

This leaves open exactly what it is to treat another merely as a means? One issue is that you might wrong someone in a way that does not use them as a tool to get something else. Even if you don't lie about it, taking your parents' car without their agreement might still be wrong. But it would not be obviously *using* them in some way. An even more obvious case: we can be cruel to others for reasons that are not instrumental to other aims we might have. So it seems like the metaphor 'using' others does not tell the whole story about how to treat them.

Here is a common way of approaching this issue. The reason it is important not to use others as a means is because using them as a means fails to appropriately respond to their humanity or— as it is sometimes called—their dignity. The real issue, then, is that we must treat people in ways compatible with acknowledging their dignity. We ordinarily call this *respect*. When we appropriately respond to the dignity of others, we respect them. There is a connection between the intuitive idea of respect and the Kantian principle. It is wrong to lie to your parents because lying to them doesn't let them decide for themselves what they will do. If you take the car to go

---

[20] T.M. Scanlon, *What We Owe To Each Other* (Cambridge: Harvard University Press, 1998).

out but tell them you are going to run errands, they don't have the chance to agree to your plan. When we ordinarily demand respect, we are asking other people to leave us alone and let us decide for ourselves what we will do. Think about a time when you might say to someone, "I want you to respect me!" When we say things like this, we are usually asking that other people acknowledge our authority or standing to make our own decisions.

Let's take stock. Violating the formula of universal law often disrespects people in the ordinary sense of interfering with their free choices. Treating others as a means does the same thing. So one hypothesis about how to understand the categorical imperative is as a requirement to respect others in the authority or standing they have to direct their own lives. This idea is actually quite common among Kantian philosophers. Kantianism's central idea is usually taken to be respect for persons. Treating persons as ends in themselves may then be identified with treating them in ways that respect their authority to decide their own lives. This is related to Kant's idea of external freedom, according to which freedom can only be limited for the sake of freedom itself.

What is yet to be done is figure out what is involved in respecting the authority of other persons. There are three possibilities:

> *(1) Respect for an agent's autonomy requires recognizing the exercise of an agent's rational capacities as a distinctive source of moral reasons.*
>
> *(2) Respect for an agent's autonomy requires acting to ensure the development and maintenance of the agent's rational capacities.*
>
> *(3) Respect for autonomy requires promoting the rational capacities of agents, and the conditions for the exercise of those capacities.*

I call these different approaches the honoring (1), protecting (2), and promoting (3) conceptions of respect. They share in common the idea that respect involves a distinctive way of appreciating the capacities that persons have that allow them to act intentionally over time. A shorthand for referring to these capacities is to call them the 'autonomy' of the person. We should respect persons who are *autonomous*. But these three ideas differ in crucial ways about *how* to respect the autonomy of persons. The first says to *honor* the exercise of a person's autonomy. Say you know someone who is planning to study so hard that it will damage her health, and so will undermine her capacity to act autonomously. The first, honoring view of respect would say that you should not interfere with her freedom, even though it might undermine her very capacity to act freely.[21] The second view says you should try to *protect* each agent's autonomy.[22] Rawls and subsequent Rawlsians often speak in this way, suggesting

---

[21] Robert Nozick may have believed something like this. See also Samuel J. Kerstein, "Death, Dignity, and Respect," *Social Theory and Practice* 35:4 (2009): 505-530.

[22] Kantians like David Velleman have advocated this way of interpreting the categorical imperative. David Velleman, "Against the Right to Die," in Hugh LaFollette (ed.) *Ethics in Practice* (Malden, MA: Blackwell, 2007): 81-90, p. 82. J. David Velleman, "Beyond Price," *Ethics* 118 (2008): 191-212.

that the exercise and development of an agent's moral powers should be protected through political institutions.[23] Sometimes they even think that protecting an agent's autonomy can involve forcing the agent to do things for her own good.[24] The third view says that you should *promote* autonomy as much as you can—as is advocated by so-called 'Kantian consequentialists.'[25] In its most extreme form, Kantian consequentialism would say that if you could promote the autonomy of two agents by violating someone else's autonomy, then you should do it—you should even do it out of respect!

I have quickly described a few different ways in which respect has been understood by Kantians. One reason this is important is that debaters will assume that if they use a criterion of Kantian ethics, it will then be no problem to show what Kantianism says we should do about the resolution. But this is not true. Depending on how you understand the Kantian view, the right answer to a variety of moral questions will be quite different. Debaters should bear in mind that the link between a Kantian criterion or framework and the case is at least as subject to contestation as is the philosophical literature about how to specify the content of the Kantian view. And there is a lot of disagreement in that literature. In short, Kantians agree that the autonomy of persons gives them a special dignity or authority, but they are divided about how we should respond to the value of that dignity or authority.

So, which view is right? I am not neutral about this. To my mind, only the first, honoring conception of respect is right. Here is why. Remember the example about your taking your parents' car. Now consider a variation in which you ask to take your parents car to drive to your friend's house in a nearby city. Your parents tell you that you cannot, because if you did you might irresponsibly stay too late and be so tired while driving home that you would crash and hurt yourself. You might protest, "That is not respecting me!" Suppose they were to reply: "It is respecting you; we are very concerned about preserving and protecting your capacity to act autonomously, and if you were injured in a car crash that would put your autonomy in jeopardy." Now, I think this is a lousy reply. Your parents might be right not to give you their car, but certainly this is not done out of respect for you. Respect means deferring to or recognizing the other person's choice as important, even when this conflicts with what might be in that person's best interest.[26] Trying to protect or promote another's autonomy is different than respecting it.

To conclude this section, we can hopefully now see why Kantianism is distinctively different from utilitarianism or consequentialism more generally. Kantians do not think of autonomy as

---

[23]See Rawls's definition of autonomy at p. 22 of *A Theory of Justice* rev. ed. (Cambridge: Harvard University Press 1971/1999). Samuel Freeman, "Liberalism, Inalienability, and the Rights of Drug Use," pp. 110-130 in Pablo de Greiff (ed.) *Drugs and the Limits of Liberalism* (Ithaca: Cornell University Press, 1999), p. 114.

[24] Peter de Marneffe, "Avoiding Paternalism," *Philosophy and Public Affairs* 34:1 (2006): 68-94

[25] Examples include David Cummisky, "Dignity, Contractualism, and Consequentialism," *Utilitas* 20:4 (2008): 383-408, as well as Michael Ridge, "Kantian Consequentialism," *Philosophical Perspectives* 23 (2009), and perhaps also Derek Parfit.

[26] An article I would consider essential reading for anyone who wants to understand Kantian ethics is Kyla Ebels Duggan, "Against Beneficence: A Normative Account of Love", *Ethics* 119:1 (2008).

the same kind of value as consequentialists think of utility or well-being. These values differ not only in what they are, but also in how we ought to respond to them, or in the reasons that they give us. Well-being ought to be promoted: the more you have of it, the better. But autonomy is not like that. It is a value that ought to be respected, and respecting a value is different than trying to get as much of it as you can. Plenty of other values have this non-consequentialist structure. Think of friendship. To say that you value friendship does not mean you are trying to get as many friendships as you can; it means you care about your friends.[27] Or think of a simple funny joke. The value of a joke is appreciated by laughing at it, not by promoting it. The deep Kantian insight about ethics is that the way we should treat others is not by trying to do something to them or for them—indeed right actions may not be trying to bring anything at all about.[28]

§2 Grounds of Kantian Ethics

In this section I will quickly describe three ways of trying to support the Kantian ethical view. I'm now leaving aside the question of what Kantianism says, and moving to the question of why we should accept what it says. What makes it true? I think the recent literature has revealed four basic ways of defending the Kantian position. I will call them the *rational requirement strategy*, the *psychological strategy*, the *realist strategy*, and the *political strategy*. The first two are familiar to debaters already. But as of the time of my writing, the second two have not gained much popularity. Since my primary focus has been on explaining what Kantianism says, I'll here mostly offer directions for how to find more information about how to defend Kantianism.

The rational requirement strategy was made famous by Christine Korsgaard (although the label is mine, not hers). In her earlier work she called this strategy Kantian constructivism, although she has used that label less in her more recent work.[29] The basic constructivist idea is that our attitudes about what is valuable are in some sense prior to the values, themselves. Things are valuable because we value them, rather than the other way around. But if our valuing attitudes make things valuable, you might wonder why we can't make anything valuable, rather than the particular things that Kantianism says are valuable. Korsgaard's strategy is to say there are rational requirements on how and what we value. Because we must exercise our rational agency whenever we value anything, Korsgaard suggested that we are rationally required to value our rational agency. This, in turn, requires us to value the rational agency of others. To see the idea, consider the analogy to belief. Suppose if you believed something that was obviously false, you would be much better off and no one would be worse off. Still, it would be a mistake to believe in this way. The reason is that there are rational requirements on what you

---

[27] A very helpful article for understanding non-consequentialism is R. Jay Wallace, "The Publicity of Reasons," *Philosophical Perspectives* 23:1 (2009): 471-497.

[28] This point is made in the opening paragraph of my favorite article of all time, Christine Korsgaard's "Reasons We Can Share," in *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996).

[29] Her early effort to explain this view is in Christine Korsgaard, *The Sources of Normativity* (Cambridge: Cambridge University Press, 1996).

can believe and not believe. You can't just believe whatever you want. If you did believe just whatever you wanted, your beliefs might turn out not to be beliefs at all—instead they would be mere imaginings. Your beliefs—perhaps just because of the concept of belief—are constrained. The idea of the rational requirement strategy is that what we value is rationally constrained in the same way that our beliefs are rationally constrained.

The psychological strategy is a Kantian constructivist approach to value developed by David Velleman (again, the label for the strategy is mine).[30] As with the rational requirement strategy, the psychological strategy holds that what we value comes before what is valuable (in some sense), and that what we value is somehow constrained. But the psychological strategy does not identify some independent rational requirement on what we value. Instead, it suggests that humans have a kind of psychological wiring that causes them to think about morality in a Kantian way. It could have been different, but for beings like us, the categorical imperative is a useful starting point to think about morality. This strategy shares some attractive features with the rational requirement strategy.[31]

By now, many debaters are well prepared to respond to Kantian constructivism in either the rational requirement or the psychological way of developing it. So it is worth noting that there are other strategies available. One is to simply be a realist about value rather than a constructivist. Roughly speaking, realism denies that values depend on our valuing attitudes. Notice that you can think that the realist is right about the relationship between valuing attitudes and facts about what is valuable, and still think that the autonomy of persons is valuable and that the right way of responding to the value of autonomy is through respect. What this means is that the metaethical questions about Kantian constructivism are importantly distinct from the first-order questions about what the view says. In debate, that means you don't need to win a constructivist metaethics to defend a Kantian position. Maybe it is actually easier to be a realist Kantian.[32]

The fourth option for grounding a Kantian ethics is the political strategy. This strategy has recently been developed in a series of papers by Japa Pallikkathayil.[33] Her view is roughly that we need political institutions to specify the content of the formula of humanity. Pallikkathayil offers some criticisms of the traditional ways of deriving Kantian morality. A problem with these views is that there seem to be cases of indeterminacy, where we cannot know through considering the cases in isolation how Kantian morality should be applied to them. Suppose you want to stay up late and play music but your roommate wants to go to sleep early. What does

---

[30] Velleman, "A Theory of Value, *Ethics* 118:3 (2008): 410-436.

[31] For an overview see Andrews Reath, "Formal Approaches to Kant's Formula of Humanity," in Sorin Baiasu and Mark Timmons [eds.] *Kant on Practical Justification: Interpretive Essays* (Oxford: Oxford University Press, forthcoming). (You can find this paper on his website). See also Ryan W. Davis, "Justice: Metaphysical, after All," *Ethical Theory and Moral Practice* (2011).

[32] Jon Garthoff, "Mimicking Korsgaard," in *Rethinking Kant: Volume 2* (2010).

[33] Japa Pallikkathayil, "The Possibility of Choice: Three Accounts of the Problem with Coercion," *Philosopher's Imprint* 11:16 (2011); and "Deriving Morality from Politics: Rethinking the Formula of Humanity," Ethics 121: 1 (2010): 116-147.

respect require? Should you defer to your roommate's choice, or should your roommate defer to your choice? With only the resources talked about above, it might be impossible to answer questions like this. An alternative is to look to rules or laws to settle the question. Perhaps, then, the facts about morality get decided by facts about political justice. This is a basic idea in the political strategy.

§3 Thoughts about Debate

Kantianism has a permanent place among the frameworks debaters use. Its chief attraction has long been that it allows you to exclude many of your opponent's impacts from consideration. If Kantianism is right, maybe all of the consequentialist advantages your opponent's case claims will just go quietly away? I think there is some truth to this, but it often gets overstated in rounds. Many Kantians still believe that human suffering matters a great deal—and they believe this for Kantian reasons.[34] So one point I have been trying to make is that debaters should be wary of accepting a quick connection between accepting Kantianism and deciding the right answer about any given resolution. You should ask yourself if the autonomy of persons might in some way be undermined or violated by your opponent's position. Even non-consequentialist Kantian positions have trade-offs. If you focus on preserving your own good will, you might be acting a way that adversely affects the autonomy of others. Is that something Kantians should care about? The answer will depend on how you formulate the details of the Kantian view, as I discussed earlier.

I will conclude with three thoughts about how the use of Kantianism among debaters could be improved. First, debaters should understand that the Kantian principle of respect might be grounded in different ways. There is no single proposed metaethical basis for Kantian ethics. Instead there are a variety of alternatives. If you use a Kantian framework, be careful to specify what your reasons are for using that framework. Being clear about your reasons for the framework will allow you to explain why generic Kantian responses don't apply to your specific standard.

Second, debaters should understand how the value of autonomy differs from other values. The primary alternative to the Kantian idea of respect is the idea that the well-being or welfare of persons matters a lot. This idea is traditionally found in different kinds of consequentialism. So it would be good to understand how well-being matters to us, and when and how other values might be more important. I don't have space to go into this here, but I recommend the work of the philosopher Dan Moller on well-being (his website is at the University of Maryland).

Third, recognize that Kantianism is not a way of giving obvious answers to any moral question you can think of. Don't just cite Kant as your framework and then give your position about the resolution. There is much work to be done in applying the theory to any given resolution. You need to have two kinds of knowledge. You need to know how Kantian theory works in general.

---

[34] See, for example, Barbara Herman, *Moral Literacy* (Cambridge: Harvard University Press, 2007), in particular her essay on the scope of moral requirement.

And then you need to think about how the theory might be applied in the case at hand. Use literature connecting the theory to the topic area to see how you might proceed in developing your case.

Conclusion

Kant believed that respect is a universal moral norm. I think he was right. No matter what the details of your relationships with other persons, you should treat them with respect. That is worth thinking about in our relationships with other persons in whatever community we find ourselves, including the debate community.

The Moral Philosophy of Immanuel Kant

By Eric Beerbohm

This essay explains Immanuel Kant's core argument in Groundwork for the Metaphysics of Morals *by examining it through the lens of a LD Debate case. It deals only with Kant's own argument; for information about theorists influenced by Kant please refer to Dr. Davis' article above.*

Immanuel Kant, Critique of Pure Reason (Cambridge, 1997), A805 B833.

All the interests of my reason, speculative as well as practical, combine in the three following questions:
1. What can I know?
2. What ought I to do?
3. What may I hope?

Of all the great moral philosophers, Immanuel Kant (1724-1804) is the most hopeless to "run" in a Lincoln-Douglas Debate Round. I would discourage the mindset that a philosophically sophisticated debate position needs to take on the identity of a particular philosopher from the canon of familial names, including Hobbes, Locke, and Rousseau, and then present arguments from only that perspective. Instead we can think of the great political and moral philosophers of antiquity and today as contributing to a vast pool of arguments about morality and justice, from which Lincoln-Douglas debaters are free to draw – with proper ascription *and* attention to the internal consistency of the arguments you are piecing together.

For instance, there is no necessary contradiction in employing an argument by Kant, a rights-based deontologist, and John Stuart Mill, a consequences-based rule utilitarian in the same debate round. The fact that Mill viscerally disagreed with much of Kant's moral outlook does not make borrowing from both of them somehow incoherent. So long as you acknowledge their differing assumptions about what morality looks like, combining philosopher's arguments in this way makes a great deal of sense. It may appeal to a greater range of judges, whose moral intuitions themselves cover a range. The only concern is if the particular arguments you cite from competing philosophies come into conflict. Even in such a case, if you clarify that there are two independent ways of justifying a particular position you have, all the better.[35] I dwell on this here because I think that the greatest deterrent to citing an argument from Kant in a Lincoln- Douglas debate round is the assumption that one must have a complete understanding of his abstruse moral philosophy, or a thoroughgoing commitment to it.

Here I will urge debaters to reconsider some powerful arguments that are made in Kant's ethical and political philosophy, many of which continue to exert a significant influence on our present

---

[35] There is nothing in the rules of Lincoln-Douglas debate which demands that each round must involve long dead philosophers duking it out.

views about the equal worth of all human beings and their essential human dignity and human rights. We are the heirs of the Enlightenment, and Kant is its quintessential philosopher.

Presenting the *Groundwork*

Kant has an abiding faith in the continuing moral progress of humanity:

> Immanuel Kant, "On the Old Question: Is the Human Race Constantly Progressing?" trans. by Robert Anchor in *Kant on History*, ed. by Lewis White Beck (Library of Liberal Arts, 1963).
>
> I claim to be able to predict to the human race … I predict its progress towards the better … because the [French Revolution] has revealed a tendency and faculty in human nature for improvement … which nature and freedom alone, united in the human race in conformity with inner principles of right, could have promised.

Kant thought that humanity's moral progress is driven by our improved understanding of how we are to live, of which he devoted his later life trying to make sense. In this chapter, I begin by sketching the central arguments of his first critical work in ethics, *The Groundwork for the Metaphysics of Morals*, in which he lays out his famous, or *infamous*, categorical imperative. I then give Kant's often neglected formulations of the moral law their due attention. Kant's view that morality entails respecting each other's dignity has much to say about a wide range of Lincoln-Douglas topics, from individual ethics to domestic policy to international human rights.

The project behind the *Groundwork for the Metaphysics of Morals* is ambitious for a work of less than a hundred pages: "The search for and establishment of the *supreme principle of morality*" (*Groundwork* 4:392). Imagine that Kant is debating the resolution: THAT WE HAVE A DUTY TO BE MORAL. If we were to structure Kant's *Groundwork* into a typical Lincoln-Douglas affirmative case, its structure might look something like this:

Immanuel Kant, University of Konigsberg

<u>**AFFIRMATIVE**</u>

Value: Human Dignity, defined as the absolute worth of human beings; a value that cannot be compared to or traded off against other values.

Criterion: Respecting the inherent and equal worth of humanity

Contention 1: We have an unconditional duty to follow the moral law.

(A)   Our moral common sense commits us to this duty to the moral law (Section 1 of the *Groundwork*).

(B)   Philosophical reflection upon our freedom as agents commits us to this duty to the moral law (Section 2 of the *Groundwork*).

Contention 2: By adhering to moral laws that are categorically binding, we respect the equal and inherent worth of human beings (Section 3 of the *Groundwork*).

(A)   Formula of Universal Law: "Act only in accordance with that maxim through which you can at the same time will that it becomes a universal law" (*Groundwork* 4:421).

(B)   Formula of Humanity: "Act so that you use humanity, whether in your own person or that of another, always at the same time as an end, never merely as a means" (*Groundwork* 4:429).

(C)   Formula of Autonomy: "Act according to the maxims of a universally legislative member of a merely potential realm of ends" (*Groundwork* 4:439).

This is not an easy case to wrap your brain around. It's not impossibly difficult either. Granted, there are many other ways a contemporary Kantian might structure this case. I will refer to the structure above as we walk through the method and substantive moral claims of the *Groundwork.* Let me first make three observations about the structure of the case.

First, I have called Kant's criterion for achieving the value of human dignity "respecting the inherent and equal worth of humanity." In a full-blown case, this criterion would need a tremendous amount of unpacking. As it now stands it raises many more questions than it answers. How do we respect such worth? If forced to choose between respecting one person's worth or five, do we choose the latter at the expense of the former?

I view the criteria in Lincoln-Douglas debate as clarifying precisely what it would mean for us to "strive for" or even "achieve" the proposed value. In this case Kant is arguing that we honor the value of human dignity by respecting the equal and inherent worth of humanity. The two contentions of the case lead to the final claim, namely, that abiding by the moral law, as formulated in Contention 2 (A) through (C), *is equivalent* to respecting all people's equal and inherent worth. So the entire case is structured around justifying (Contention 1) and spelling out (Contention 2) the criterion. As a footnote, this strikes me as an attractive case structure, assuming the soundness and the validity of the arguments therein.

Second, notice the independence of the two subpoints under Kant's Contention 1. In introducing this contention, it would be wise for Kant to clarify that he is offering two free-standing ways of demonstrating our unconditional duty to the moral law. But Kant must say in what sense these two arguments are independent. (Too often in Lincoln-Douglas debates we hear that the affirmative is offering "four *independent* arguments in support of the resolution" without being told what that means). They are independent, Kant could say, in that they employ two distinct methods of moral reasoning. So you could endorse (A) and reject (B), and vice versa, and still be moved by the contention itself.

The first subpoint (A) is an argument for Contention 1 by appeal to our commonsense moral views. It's structure is straightforward: If you agree with me about the concepts of duty and the good will, then you are *already* committed to a stronger view, namely that we have an unconditional duty to follow the moral law. The second subpoint (B), on the other hand, explicitly bypasses what Kant calls "popular moral philosophy" and instead employs a philosophical theory about the will in order to advance the argument of Contention 1.

Third, we can finally observe the *dependence of* Contentions 1 and Contentions 2. If Kant fails to get Contention 1 off the ground, Contention 2 is doomed, precisely because it relies upon the previous contention in a crucial way. If we recall the resolution, RESOLVED: THAT WE HAVE A DUTY TO BE MORAL, it seems clear that Contention 2 is *parasitic* (that is, essentially dependent) on Contention 1 in order for the case to properly give reasons for the affirmation of the resolution.

Contention I: Duty and the Moral Law

For Kant, we begin in Contention 1(A) by asking: What do we know about morality? What principles underlie our view that we have obligations to others and ourselves? The *Groundwork* thus begins by reflecting on our commonsense intuitions about right and wrong. Kant asks us to consider what in the world is unconditionally good and concludes:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981.
>
> There is no possibility of thinking of anything at all in the world, or even out of it, which can be regarded as good without qualification, except a *good will*. Intelligence, wit, judgment, and whatever talents of the mind one might want to name are doubtless good in many respects and desirable…But they can also be extremely bad and harmful if the will … is not good.

For a philosopher known for his often cryptic level of abstraction, this is a straightforward appeal to an intuition Kant is confident that we all hold. Anyone can endorse this claim because it appeals to the kinds of rational standards that all agents employ in moral judgment and deliberation. We have the basic capacity to recognize what morality demands and to see the worth of living morally. There is no need for "science or philosophy in order to know what one has to do to be honest and good, and even wise and virtuous" (*Groundwork* 4:404).

Even being the shrewdest debater is not, Kant would surely agree, *necessarily* good if those skills are used to manipulate or confuse, to argue for positions which are wrong or hypocritical. Having a "good will," however, never leads us to wrong. Kant sees this as self-evident. He contrasts a good will from one that acts in order to achieve an ulterior motive, that is, a selfish will. He then makes the stronger claim that "happiness" itself has no value if it is not combined with a good will. For those attracted to the view that morality is in the business of bringing about the most happiness, Kant here gives reason to pause. Indeed, he makes the challenging claim that having a good will is a necessary condition for making oneself *worthy* of happiness (*Groundwork* 4:396).

It is not always easy, however, to distinguish "good will" from a mere desire to act as duty demands. Consider the case Mother Teresa, who clearly did not act out of grudging duty but rather *desired* to care for the poor of Calcutta. Kant's description of the person whose will to do good and their inclinations overlap seems to fit Mother Teresa very well: Such a person is "so sympathetically constituted that without any motive of vanity of selfishness they find an inner satisfaction of spreading joy, and rejoice in the contentment of others which they have made possible" (*Groundwork* 398). Is the person whose natural inclination to do good coincides with their duty not morally praiseworthy, according to Kant? There is an enormous amount of discussion about how Kant can respond to the intuition, which many of us have, that doing one's duty cheerfully is the moral ideal of right action, not somehow inferior to one moved only

by a vague sense of duty.

To act out of duty, then, is to express respect for the moral *law*. It is not merely enough to happen to do the right thing, whether out of luck or coincidence with one's interest (recall the phrase that honesty is the best policy, implying that truth-telling is in one's interest). Moral agents govern themselves so that their actions conform to moral laws:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. By James Ellington, Hackett Publishing, 1981, G401
>
> Nothing but the *idea of the law* in itself, *which admittedly is present only in a rational being …* can constitute that pre-eminent good which we call moral, a good which is already present in the persons acting on this idea and has not to be awaited merely from the result.

Note that Kant hasn't yet told us what makes a principle a moral law. He has merely claimed that we *all believe*, upon reflection, that the moral worth of a person with integrity flows from the fact that she governs herself by duty to the moral law. To find out the *content* of the moral law, what precisely our duties are, Kant thinks we need to ask this question:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. By James Ellington, Hackett Publishing, 1981, G402.
>
> What kind of law can this be the thought of which, even without regard to the results expected from it, has to determine the will if this is to be called good absolutely and without qualification?"

Once we accept that morality is *not* about bringing about a set of consequences, whether human well-being or happiness, we may be left wondering: what could it possibly mean to comport oneself with the moral law? Are not determinations of right and wrong all about the consequences of our actions? The answer is a very difficult one to grasp, but it goes something like this. If a will is not made good because of its desire for a consequence, it must follow, by a sort of process of elimination, that a person of good will acts in ways that are fit to be made laws. Before introducing Kant's own statement of this leap, let's turn to a modern day Kantian, Christine Korsgaard, for clarification of the argument.

> Christine Korsgaard, *Creating the Kingdom of Ends* (Cambridge, 1996), p. 13.
>
> If we remove all purposes – all material – from the will, what is left are the formal principles of the will. The formal principle of duty is just that it is duty – that it is a law. The essential character of law is university. Therefore, the person who acts from duty attends to the universality of his/her principle. He or she only acts on a maxim that he or she could will to be a universal law (G402). In this way

> Kant moves from the idea of a good will is one that acts from duty to a principle that can be used to tell us what our duties are.

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981, G402.
>
> Since I have robbed the will of every inducement that might arise for it as a consequence of obeying any particular law, nothing is left but the conformity of action to universal law as such, and this alone must serve the will as its principle. That is to say, I ought never to act except in such a way *that I can also will that my maxim should become a universal law.* Here bare conformity to universal law as such … is what serves the will as its principle, and must so serve it if duty is not to be everywhere an empty delusion and a chimerical concept.

I cannot do justice to the statement of the moral law which Kant provides here. Some more commonsensical ways people have interpreted Kant's claim that we must only choose principles that we would will universally include:

(1) Treat others with the same respect with which you would like to be treated.

(2) Ask yourself about a proposed action (a maxim), "What if everyone did that?"

(3) Do not make yourself an exception to rules that you expect others to follow.

Each of these simplifications leaves out some crucial element of this early version of the Formula of Universal Law (a *version* of the categorical imperative, i.e., moral law). But each also helps to shed some light on why a principle as intimidating as the categorical imperative may make a great deal of sense when reflecting on how we already reason morally. Let me now explain the problems with the three "re-formulation" I listed above.

Imperative (1) suggests that the categorical imperative can be seen as a version of the Golden Rule. Kant anticipates this claim in a footnote in the *Groundwork* 430*n*. His problem is its appeal to what any human would "like," which he fears will permit actions which are immoral. This is because "many a man would gladly consent that others should not benefit him, provided only that he might be excused from showing benevolence to them" (G430*n*). In other words, even our basic moral notion that we should do something for people in need would be undermined by reading the categorical imperative merely as a philosophically deep sounding version of the Golden Rule.

Imperative (2) is problematic because it forbids many actions which are plainly morally permissible. Consider the maxim, "I will take a trip to my local supermarket at 4 p.m. today to pick up some milk." Arguably, if everyone adopted this maxim, there would be utter mayhem in the poor supermarket that is the subject of this maxim: People may be crushed and milk spilled.

So there must be something more to the categorical imperative than merely looking at the consequences of a particular action if the whole world performed that action.

Imperative (3) is an attractive rendering of the categorical imperative because it so tidily conveys why deceit of all forms is wrong. To effectively tell a lie, the person deceived must believe you. If they didn't your very act of lying would be impossible. To make a deceitful promise that you will pay back a loan when you know you cannot, the loaner must believe in the efficacy of promises. Kant has a tremendous aversion to coercion and deceit, activities which he thinks treat people like objects of our will, and not creatures possessing dignity. However, this version of imperative soon becomes problematic, for it relies on an "expectation" people have about others' actions. Yet it's entirely conceivable that someone who grows up in a neglectful or abusive environment, for instance, may come to expect only the worst from the "crooked timber of humanity" (a famous Kantian phrase reflecting his view of human nature as at odds with our duty to the moral law).

In Contention 1(B), Kant also argues for our obligation to obey the moral law, but this time by investigating the nature of rational action. The method at work here is not an appeal to our intuitions but a philosophical claim about the lawfulness of nature:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981, G412.
>
> Everything in nature works according to laws. Only a rational being has the power to act according to his conception of laws, i.e., according to principles, and thereby has he a will. Since the derivation of actions from laws requires reason, the will is nothing but practical reason.

Non-human animals merely act on their inclinations, as dictated by instinct. But what makes humans unique is our rational capacity to create laws for ourselves and follow them. But why *must* we follow such moral laws, if we give them to ourselves? Remember the resolution is <u>not</u> that it would be a good idea if everyone followed the moral law. It seems a leap from our ability to follow laws to our unconditional duty to follow laws. Kant then appeals to a fact about humans that he thinks is undeniable: We are unavoidably free.

> Christine Korsgaard, *Sources of Normativity* (Cambridge, 1996), p. 97.
>
> The free will must be entirely self-determining. Anything outside of the will counts as an alien cause, including the desires and inclinations of the person. Yet, because the will is a causality, it must act according to some law or another. Kant says: 'Since the concept of a causality entails that of laws … it follows that freedom is by no means lawless.'

Whenever you make a decision, there is an implicit *reason* behind it. All reasons that we appeal

to in justifying our actions have an underlying principles behind them: If I make an ill-natured comment about my most recent opponent, I am adopting the principle – whether I intend to or not – that following debate rounds I speak poorly of my opponents. Every one of our actions contains such a *maxim* embedded in them, and each of these maxims can be phrased as a law about human action. A maxim must include your reasons for action: here is what I'm going to do and here's why. This law comes not from outside the will, that is, from those around us, but rather, it must come from ourselves, *because the will is free*, which is merely to say that we are inevitably decision-making agents. To be human is to be in the business of making choices, giving reasons, and thereby setting laws for oneself. Because we are free, only we can set laws for ourselves. Now it's apposite to ask: why cannot a person set laws for himself which are of any content he chooses? Our contemporary Kantian explains:

> Christine Korsgaard, *Sources of Normativity* (Cambridge, 1996), p. 98.
>
> The categorical imperative, as represented by the Formula of the Universal Law, tells us to act only on a maxim which we could will to be a law. And *this*, according to Kant, *is* the law of a free will. To see why, we need only to compare the problem faced by the free will with the content of the categorical imperative. The problem faced by the free will is this: the will must have a law, but because the will is free, it must be its own law. And nothing determines what that that law must be. *All that is has to be is a law*. Now consider the content of the categorical imperative, as represented by the Formula of Universal Law. The categorical choice is that it has the form of a law. And nothing determines what the law must be. *All that is has to be a law*.

We must act on principles which can be made the moral law of the land. Kant's use of the difficult term, categorical imperative, is really just a way of saying the "practical law" that governs our actions without exception.

But how can we know if a maxim is inappropriate for the moral law?

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981, G416.
>
> Ask yourself whether, if the action which you propose should take place by a law of nature of which you yourself were a part, you could regard it as possible through your will.

How do we determine whether the principles of a proposed action – a maxim – are "possible through your will?" Kant's answer is that we must be able to will a maxim without contradiction. There are two crucial senses in which a maxim we act on can be contradictory:

1) If a maxim you will cannot even be *conceived of* as a law of nature without contradiction, it is

a violation of universal law; and

2) If a maxim you will cannot be *willed* without contradiction, it is contrary to an *imperfect*, it is a violation of universal law.[36]

What better than an example of these two forms of contradiction to clarify their meaning? Kant first imagined what the maxim of the lying promisor would look like:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981, G422.
>
> When I believe myself to be in need of money, I will borrow money and promise to repay it, although I know I will never do so.

We know that, barring extreme cases of hardship, this maxim is wrong *in some sense*. Kant thinks the maxims becomes contradictory once we spell it out as a universal law of nature, that is, a law that every human being was bound to follow:

> Immanuel Kant, *Groundwork for the Metaphysics of Morals,* trans. by James Ellington, Hackett Publishing, 1981, G422.
> It is a universal law of nature that when anyone believe that they are in need of money, they will borrow it and promise to repay it without having any intention to do so.

If this become a universal law for every human being, it seems clear that there could be no promises at all. The very efficacy of the lying promise depends on others' reasonable beliefs that they can count on the promisor. The lying promisor is "free-riding" upon the institution of making promises for personal gain. They are acting as an exception to a rule they themselves endorse and benefit from: The rule that a promise is to be kept in all but the most exceptional cases.

Kant's three other examples of maxims that are *contradictory*, that is, that affront the categorical imperative, include:

1) *Rusting Talents*: "I will neglect the development of my talents and instead devote my life entirely to idleness and pleasure" (G421).

2) *Refusing to Help*: "May each one be as happy as heaven wills, or as he can make himself, I will take nothing from him or even envy him; but to his welfare or his assistance in need I have no desires to contribute (G423).

---

[36] Christine Korsgaard, *Creating a Kingdom of Ends* (Cambridge, 1996), p. 14.

3) *Suicide*: "From self-love I make it my principles to shorten my life when by longer duration it threatens more ill than agreeableness" (G422).

There is not room to unpack each of these examples, and each of these immoral maxims has received a great discussion in Kantian literature. My suggestion is that you view Kant's examples as "hooks" for seeing what Kantian ethics *might* have to say about a particular topic. Imagine a welfare state topic about the right to basic assistance of the least well off citizens. Clearly Example (2) suggests that Kant may be able to offer some help. But it's better to see these examples as ways of *starting* to understand Kant's moral system, not as the final word on any side of a resolution. Finally, it's good to note that these examples are not meant to be exhaustive. Kant thinks that whenever we are about to act, when can extract out of our proposed action and its reasons a maxim which we can transform into a *candidate* for a universal law. To see whether our maxim passes muster, we must refer above to the two ways it may be contradictory: It cannot be conceived of without contradiction or it cannot be willed by us without contradiction.

Contention 2: Human Dignity

Yet once we turn to Kant's Contention 2, as outlined above, we quickly see that the particular formulation of the "categorical imperative" we have thus far been working with, "The Formula of Universal Law," is not the final word of Kantian ethical thought. There are three major formulations of the categorical imperative offered in the *Groundwork*. We have already visited the *Formula of Universal Law,* which is often mistaken to be *the* categorical imperative.

Formula of Universal Law: "Act only in accordance with that maxim through which you can at the same time will that it becomes a universal law" (*Groundwork* 4:421).

There remain two formulations of the moral law, both of which offer powerful explanations of why we consider actions to be right or wrong.

Formula of Humanity: "Act so that you use humanity, whether in your own person or that of another, always at the same time as an end, never merely as a means" (*Groundwork* 4:429).

This is most often used on debate rounds as a slogan rather than an argument: "People matter!" Other times it is presented as a principle of a principle of benevolence – of the moral worth behind doing charity for others. Finally, debaters refer to the *Formula of Humanity* as a fancy way of saying, "It's wrong to use people."[37] There are two parts to this formula, which yet another Kantian of today, Thomas Hill, Jr. distinguishes nicely:

(1) Act in such a way that you never treat humanity simply as a means.

---

[37] Thomas Hill, Jr., *Dignity and Practical Reason in Kant's Moral Theory* (Cornell, 1992), p. 41-42.

(2) Act in such a way that you always treat humanity as an end.[38]

Even though we can make a distinction between (1) and (2), they are in no sense independent. Presumably, by treating people as ends in themselves, bundles of dignity, we will not treat them as a means to our particular ends. It is not enough, however, to merely avoid treating people as they were the objects of our life plans or desires. Kant seems prepared to accept that failing to cultivate our talents does not exactly treat humanity as a means. Clearly imperative (2) is doing the work in cases where a wrong action – say failing to help a drowning child – would not violate imperative (1).

This requires us to make sense of imperative (2). First we can note Kant's distinction between humanity, whose worth is an "end it itself," from other "relative ends" (*Groundwork* 427). We don't yet know what precisely humanity as an end *is*, but we know that *what makes* humans "ends in themselves" is not because we happen to think humans are good to have around. Second we can understand an "end it itself" as one "such that in its place one can put no other end to which it should serve simply as a mean" (*Groundwork* 429). Thomas Hill helps explain:

> Thomas Hill, *Dignity and Practical Reason* (Cornell, 1992), p. 44.
>
> We may understand [Kant] to be saying that when a person's humanity gives one a reason for doing or refraining from something, whatever this may be, that reason takes precedence over other reasons; for example, even if neglected, impairing, or dishonoring a person's humanity were to cause many people pleasure, this would not be a rational exchange.

Yet we use the services of others each day, as they use ours. Are we acting wrongly when we pay a driving instructor to make possible our goal of learning how to drive? Clearly there must be something more to the *Formula of Humanity* than the claim that we cannot treat others as mere means.

> Thomas Hill, *Dignity and Practical Reason* (Cornell, 1992), p. 45.
>
> It would be obviously absurd to say that one cannot use a person's services unless that person, quite literally, shared all of one's ends in doing so – for example, to say that carpenters employed to build an opera house must have among their goals the increased enjoyment of opera. The point is that, insofar as others are used a means, they must be able to adopt the agent's end, under some appropriate description, without irrational conflict of will. If the carpenters are in need of work and are decently paid, they can without irrationality adopt the immediate end of building an opera house, whether they care for opera or not.

---

[38] *ibid.*

To recap, we must have the ability to share each other's ends. There is a famous quote in *Theory of Justice* that in a society of free and equal citizens, we must "share each other's fate." Here we see the Kantian theme expressing itself not just in ethics, but political philosophy as well.

We have arrived at the final, most neglected, formulation of the categorical imperative, expressed in Contention 2(C).

Formula of Autonomy: "Act according to the maxims of a universally legislative member of a merely potential realm of ends" (*Groundwork* 4:439).

We must act exclusively on maxims that *all* of our fellow human beings *could* agree to act on collectively in a "workable cooperative system."[39] Kant asks that we conceive of ourselves as citizens belonging to the "kingdom of ends," which means a place where people abstract from their particular goals in life and even conceptions of what a good life is, and consider ends that every member of society could reflectively endorse. There is a seamless harmony to the "kingdom of ends" as Thomas Hill describes it:

> Thomas Hill, *Dignity and Practical Reason* (Cornell, 1992), p. 59.
>
> Since we must "abstract from personal differences," however, we can know nothing of the particular nature of these ends. Members of the kingdom, for example, are not thought of as power-seekers, peace-lovers, money-grubbers, or bird-fanciers. As members they are neither egoists nor altruists.

Notice that the kingdom of ends is starting to sound awfully Rawlsian. Its members act from behind what looks something like a veil of ignorance. The formula of autonomy demands the following: that we follow *only* rule that we would make if we belonged to the legislature of such a kingdom.[40] If we were legislators with the duty to enact the moral law, what kind of laws would we ratify? We would have to consider pending legislation not from our particular point of view, biased by our own proclivities and ambitions. Rather we would search for principles that could be universally consented to by free and equal citizens.

In the *Groundwork,* Kant grounds morality in the dignity of every human being, which we possess because of our uniquely rational nature. He offers powerful reasons why thinking about morality in terms of consequences leads us astray. And he presents a vision of the human community in which our ends, and thus our fates, are shared. The level of abstraction at which Kant conducts most of the *Groundwork* discourages debaters from considering "Kant's position" on either side of a given topic. Indeed I think it should.

---

[39] Christine Korsgaard, *Sources of Normativity* (Cambridge, 1996), p. 99
[40] Thomas Hill, Jr., *Dignity and Practical Reason in Kant's Moral Theory* (Cornell, 1992), p. 59.

Instead, search out positions on topics that are Kantian in spirit, that appeal to the same kinds of moral considerations that motivate Kant's particular outlook: The absolute worth of every human being and their equal standing. A classic essay by Thomas Hill asks "How a Kantian Might Think About Terrorism." Hill is not even beginning to answer what Kant *himself* would think that a just society can do in response to senseless, organized violence. Nor should Lincoln- Douglas debaters be motivated by the desire to discover in the *Groundwork* or Kant's applied moral philosophy in *The Metaphysics of Morals*[41] what Kant would think about nuclear war, famine, animal rights, or affirmative action. Rather we can ask ourselves, after sympathetically trying to understand this way of understanding morality, what are Kantian solutions to this are that perplexity in questions of value? Is Kant's moral philosophy "not a morality of austere command but an ethic of mutual respect and self-esteem?"[42] I have not attempted to answer these questions here, but have only begun to understand them.

---

[41] For an excellent collection of Kant's political philosophy, see *Kant: Political Writings* ed. by Han Reiss (Cambridge, 1970).

[42] John Rawls, "Themes in Kant's Moral Philosophy," in R. Beiner and J. Booth (eds.), *Kant and Political Philosophy: The Contemporary Legacy* (New Haven: Yale, 1993), pp. 292-293.

Contractualism: Consequentialism's Biggest Critic

By Eric Beerbohm

This essay begins by describing three important objections to consequentialism. It then describes Scanlon's contractualism as a proceduralist account of moral reasoning which better accounts for moral intuitions than alternative theories. Lastly, it describes two potential objections to contractualism.

I. Introduction

In the comic fable *Waking Ned Devine*, a local of the North Sea Irish hamlet of Tullymore wins the National Lottery, only to die seconds later from the awe of winning nearly seven million pounds. The members of the island village agree to deceive the authorities and carve up the winnings among the fifty two denizens – with the exception of Lizzy Quinn, the bona fide town witch, who refuses to participate in the scheme, threatening to blow the town's cover.

A Lincoln-Douglas debater accustomed to life-and-death moral dilemmas may suppose the question at stake is whether to kill Quinn, greatly enhancing the well-being of this poor community. Indeed, a utilitarian may be hard pressed to come up with enduring reasons why the town would be wrong in eliminating the one obstacle to their fiscal watershed. But I have in mind less grisly questions. Do we think that Quinn is being reasonable in rejecting Tullymore's scheme? Her veto seems more motivated by reasons of spite than by right. Do we judge her based upon her actual reasons or her available reasons? And even if she were moved to agree to the deceit, what would we think about the rightness of the town's decision?

Waking Ned Devine conveys the importance of the *process* of moral deliberation, which moral philosopher T.M. Scanlon believes entails justifying one's actions to others with principles that they could not reasonably reject. His recent treatise on the foundation of normative ethics devotes itself to arguing that justification and reasonable rejection, though by no means magically determinative concepts, can best explain what we are doing when we describe an action as right or wrong, or judge ourselves to have abided by or breached morality by our action or inaction.

T.M. Scanlon's *What We Owe Each Other* (Harvard, 1998), where he first systematically presents his contractualist theory, stands as the most promising attempt to work out a genuine alternative to consequentialist theories of right and wrong. Indeed, it has been described by a famous Oxford professor as the "*most important book in ethics of this century.*"[43]

---

[43] Derek Parfit, Professor of Oxford University, overheard after a lecture on Scanlon and Kant, 1999.

II. Consequentialism's Appeal

Consequentialism is a moral theory that declares an act right if it produces the best possible outcome, as judged by some impartial metric that gives equal weight to all individuals. This metric can include human well-being, pleasure, or happiness (the metric which utilitarians embrace). When reasoning about what to do, we are to rank the overall states of affairs from best to worst based upon the metric we are using, and then we are to select the best option we are able to produce. Philosopher Samuel Scheffler makes a strong case for the seeming irresistibility of consequentialism:

> Samuel Scheffler, *Consequentialism and its Critics* (Oxford, 1988), p. 1.
>
> On the face of it, the idea, which lies at the heart of consequentialism, seems hard to resist. For given only the innocent-sounding assumption that good is morally preferable to evil, it seems to embody the principle that we should maximize the desirable and minimize the undesirable, and that principle seems to be one of the main elements of our conception of practical rationality. Anyone who resists consequentialism seems committed to the claim that morality tells us to do less good than we are in a position to do, and to prevent less evil than we are in the position to prevent. And this does not sound nearly as plausible.

There are three familiar objections to consequentialism that are worth rehearsing before we consider Scanlon's genuine contractualist alternative. Whereas these criticisms of consequentialism are merely designed to shipwreck the doctrine, Scanlon offers another way of thinking about morality that, I think, has much promise for virtually any Lincoln-Douglas debate topic.

First, consequentialism fails to take the distinctions between people seriously. By aggregating human happiness or well-being, it is insensitive to considerations of fairness and justice which determine how to distribute the benefits and burdens of society. John Rawls's famous attack on utilitarian, the most familiar form of consequentialism to any Lincoln-Douglas Debater, goes as follows:

> John Rawls, *A Theory of Justice: Revised Addition* (Harvard, 1999), p. 24.
>
> The [utilitarian] view of social cooperation is the consequence of extending to society the principles of choice for one man, and then, to make this extension work, conflating all persons into one through the imaginative acts of the impartial sympathetic spectator. Utilitarianism does not take seriously the distinction between persons.

Second, consequentialism requires people to do *whatever* act that produces the best consequences, and this may *require* us to do actions which we consider to be horrendous.

There is no action, however monstrous, that consequentialism rules out, *if* that action will produce more good for society. Many consider this a very dangerous moral system because every claim it makes is contingent upon the extent to which an action will maximize the good. Consequentialism may not merely *permit* the torture of a child, if that can somehow save more lives, but it may *require* it.

Third, consequentialism is an unbelievably demanding moral theory, many argue impossibly so. This sounds like a strong argument against a system of morality. Naturally we assume that morality requires us to sacrifice. But consequentialism requires much more than occasional sacrifice; it demands so much that it may undermine the integrity of a person to pursue their own conception of a good life:

> Samuel Scheffler, *Consequentialism and its Critics* (Oxford, 1988), pp. 3-4.
>
> [I]n a world of as full of human suffering and misery as this one, only those with an extraordinary degree of moral self-confidence will be prepared that there is no possible way they could do *any more* good for the world than by doing exactly what they are already doing.

III. Scanlon's Alternative to Consequentialism

We can first delve into Scanlonian Contractualism by observing how it frames itself in relation to consequentialism:

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 189.
>
> The idea that an act is right if and only if it can be justified to others is one that even a noncontractualist might accept. Utilitarians, for example, who hold that an act is right only if it would produce a greater balance of happiness then any alternative available to the agent at the time, presumably also believe that an act is justifiable to others just in case it satisfies this utilitarian formula, so they too would hold that an act is right if and only if it is justifiable to others on terms they could not reasonably reject. For utilitarians, however, what makes an action right is having the best consequences; justifiability is merely a consequence of this.

Previous challenges to consequentialism, as we say in the previous section, have often defined themselves as mere checks or side-constraints on theories that determine the good on an aggregate basis. Even for self-described non-consequentialist theories, morality dwelled on results. For Scanlon, however, the primary site of morality is neither about what *happens* nor what the particular agent *does*, but how persons relate to each other. Scanlon's contractualist account of morality is a nuanced and careful work, as we would expect from any project that sought to develop a unified account of morality. Here I simply hope to point out some of the

most insightful and difficult parts of the book.

In a Lincoln-Douglas Debate round, moral contractualism can serve several obvious uses. First, it can accompany a social contract theory of government like Rawls's justice as fairness, offering principles for the right conduct of individuals, not institutions. Second, it can be presented as a way of plausibly reading Kant's first formulation of the categorical imperative: Act only on maxims which you could rationally will to be universal laws. Third, the Scanlon's standard of reasonable agreement, properly clarified, can function well as value criterion in Lincoln-Douglas cases.

You have all learned the basics of John Rawls's *political* contractualism. Now another Harvard philosopher offers a theory of *moral* contractualism. What is the relationship between them? *A Theory of Justice* limited its scope to the basic institutions of society. Yet Rawls saw the potential for contractualism to be "extended to the choice of more or less an entire ethical system, that is, to a system including principles for all the virtues and not only justice."[44] Scanlon's "morality as justification" can be read as extending the contractualism of Rawls's "justice as fairness" beyond the basic structure and into everyday moral relations among people. In a just society we share each other's fate, by only permitting equalities if they are to the benefit of the least well off.

In a community of moral inquirers we must share each other's reasons, and the very act of public justification – an ongoing and endless task – will lead us to standards which are correct. That is the collective moral vision of Scanlon and Rawls, who share an aversion to consequentialism's moral clumsiness, its willingness to add up the well-beings of humans and bless the action that produces the greatest good, even if it prescribes actions that fly in the face of our intuitions about rightness and decency. Think of Scanlon's book as having the title, *A Theory of Ethics*.

A consequentialist theory may justify the silencing of Lizzy Quinn by whatever means, threats or actual violence, and it certainly would seem to excuse the collective deceit of the impoverished town. Even if a consequentialist would not sanction any of these actions in case at hand, the reasons it could offer for their prohibition would be contingent at best. By its emphasis on pair-wise comparisons of competing reasons, Scanlon's contractualism offers clear reasons why deceit and coercive of all forms are morally objectionable. His description of what moral reasoning is ultimately *about* will make this work an enduring contribution to moral theory.

Scanlon is *not* proposing the kind of decision procedure *or* substantive conception for moral philosophy as John Rawls provided political philosophy. At one point, Scanlon tries to imagine how a contractualist moral theory "tighter" than his would look like, where agents would have to distribute "moral primary goods" in conditions not unlike Rawls's original position. He rejects such a view precisely because it would oversimplify the features that make actions right and wrong, letting go of crucial moral notions such as responsibility and fairness in the name of

---

[44] John Rawls, *A Theory of Justice* (Harvard, 1971), p. 17.

determinative answers to moral questions. Deeply aware of the complexity of moral judgment, Scanlon is properly humble about what a general theory of what we owe each other can and cannot plausibly accomplish. The task of developing one general decision procedure that could answer every moral question is a project that Scanlon sees as wrong-headed as it is arrogant.

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 359.
>
> Arriving at answers to difficult moral questions does not generally involve the construction of long chains of complex and ingenious argument, of the kind that occur in mathematics, but it does demand both imagination and careful, sometimes subtle, analysis.

Rather, Scanlonian Contractualism provides a pluralistic account of how we should reason with each other about moral predicates. The true test of contractualism, like any foundational moral theory, is how its framework helps us to reason about the pending questions in ethics. What drives Scanlon's metaethical characterization of reasons, values, and well-being in the first three chapters is a practical concern, particularly so for a primarily metaethical work. Scanlon is optimistic that pre-reflective moral intuitions and systematic reasoning can work in concert to produce authentic progress on normative questions of our day.

His chapters on *Responsibility* and *Promises*, which will be particularly helpful to Lincoln-Douglas topics involving questions of deceit in public and private life, show us contractualist reasoning in action, where the method of reflective equilibrium is at play. Scanlon is candid about whether his arguments originate "upward," from pre-theoretical judgments, or "downward," from his general theory of reasonable rejection. The wrongness of breaking a deathbed promise, he persuasively argues, comes not from the fact that promising is a social institution the credibility of which must be maintained, but rather from the fact that breaking a promise without good reason violates a principle which is valid *even if* it is not recognized as such. This particular case demonstrates the force of contractualism, but Scanlon aspires to a coherent *and* unified theory of right and wrong.

Reversing Socrates's famous description of the subject of ethics – "How should we live?" – Scanlon instead begins by asking: "What makes an action wrong?" Note that this question is not addressed to the person whom Scanlon calls the "amoralist," who simply does not care about doing what is right. Scanlon recognizes that moral philosophy must begin with some assumptions about its audience, and he doubts that we can supply an air-tight justification for the authority of moral reasons to a person who sees morality as an unimportant set of preferences that people happen to have. There really are not any amoralists anyway, he suggests: "We all believe that some actions are morally wrong."[45]

Scanlon attempts to identify the features that separate wrong actions from right ones by

---

[45] T.M. Scanlon, *What We Owe Each Other* (Harvard, 1999), p. 152.

considering those necessary and sufficient conditions that make an action wrong. Like other social contract theorists, Scanlon's contractualism is not literal; there are no bargainers, actual or imaginary. Scanlon ascribes a distinctive motive to moral agents – they are seeking a "basis for informed, unforced general agreement."[46] Unlike the familiar device of the original position, Scanlon's moral agents are acutely aware of their identities – indeed, "they" are "us." It is precisely the uniqueness of every person's perspective that makes Scanlon's engine of justification distinctive.

Whether someone would actually reject or accept a principle does not tell us its rightness. On Scanlon's view, we present principles justifying conduct and consider whether parties can reasonably reject such principles. Here is the neo-Kantian[47] principle that sums up moral contractualism:

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 152-153.
>
> An act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement.

Those severely burdened by a particular principle have intuitively compelling complaints, even if they only number in the few. Departing from the consequentialist tradition of aggregation, contractualism assigns to the individual alone the power of the veto. To give sufficient moral reason for a principle is to be able to justify it to all relevant agents. Scanlon thinks that this vision of morality as justification mirrors commonsense morality very closely. Our grave qualms with deception, coercion, and violence do seem to follow from the way they undercut people's capacity for agency. Lying to someone is a clear-cut example, for the very act of deceiving someone relies on the liar's *inability* to justify his or her falsehoods.

When we feel the special authority of moral reasons, the experience provides us with a distinctive motivation, one that does not simply amount to noticing that the welfare of another human being is quantifiably low. It involves hearing the complaint of those who are vulnerable or oppressed, and recognizing the unjustifiability of our actions in relation to their plight. Hinted here is the claim that only contractualism can distinguish our *misfortune* from *injustice*. Scanlon describes this phenomenological experience very personally:

---

[46] Scanlon, p. 152.

[47] What makes this principle neo-Kantian? It tests candidates for moral principles by asking whether they could be, in one sense, made universal. A principle survives the test if, when we demanded complaints from each member of society, *no member* could offer sufficient reasons in opposition to the principle. A tremendous amount, granted, depends on what you take to be *reasonable* and *unreasonable*.

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 152-153.
>
> When, for example, I first read Peter Singer's famous article on famine and felt the condemning force of his arguments, what I was moved by was not just the sense of how bad it was that people were starving in Bangladesh. What I felt, overwhelmingly, was the quite different sense that it was wrong for me not to aid them given how easily I could do so. It is the particular reason-giving force of this idea of moral wrongness that we need to account for.

What are we doing when we acknowledge the wrong alleged here, and even implicate ourselves in the wrong? Let us consider how Scanlon's contractualism can answer its own guiding questions in the case of preventable starvation abroad.

First, what are we saying when we claim that inaction in the face of great immiseration is wrong? The first aim of *What We Owe Each Other* is to describe the subject matter of morality in a plausible way. Scanlon thinks that his pluralist theory of contractualism can account for the importance of human well-being without making well-being the sole measure of what is right and wrong. What is motivationally powerful about the Bangladesh case is that Scanlon himself feels pressure to justify his lifestyle to every member of humanity. It is precisely his *inability* to give any good reason to those in abject poverty why he should continue to live in relative luxury that presents him with a strong reason for him to act.

Morality as justification, Scanlon argues, can fully account for our ideas of fairness, deception, and coercion in a "single unified framework." Rival moral theories reduce such concepts to one single hegemonic notion, whether happiness, pleasure, or allusive notions of well-being. Contractualism, on the other hand, placed due emphasis on "justification, hence on reasons and principles, captur[ing] a central feature of everyday judgments of right and wrong."[48]

Second, what kind of reasoning is bringing us to think the judgment that our inaction is wrong? Scanlon claims that his contractualist theory is a better explanation of our everyday moral reasoning than, for example, monist theories which hold happiness as the one essential metric:

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 152.
>
> One problem with the utilitarian account is that the idea of general happiness, despite its general moral significance, does not seem to be sufficiently closely linked to our ideas of right and wrong. Many acts are wrong even though they have little or no effect on people's happiness, and the fact that an action would promote aggregate happiness does not guarantee it is right. Moreover, even where happiness, or at least individual well-being, is clearly at stake, its appeal

---

[48] Scanlon, p. 197.

alone does not seem to account for the motivation we feel to do what is right and to avoid what is wrong.

Countless triage-type thought experiments testify to our intuitions that there is something wrong with consequentialist frameworks. Most people think it's immoral to cut up one innocent person to use his body parts to save the lives of five others. This visceral response, consequentialists can respond, is a handy rule-of-thumb for the everyday person. We wouldn't want to live in a world of committed utilitarians, unless they were profoundly careful about their moral reasoning. Consequentialist reasoning, however right, seems to demand that it remain a very private form of reasoning – perhaps only for a small group of moral philosophers to actually apply in their daily lives. To publicly advocate consequentialism may very well violate its own prescriptions for living. This strikes me as one of the most important distinctions between consequentialist theories and Scanlon's morality as justification – public justification. For many consequentialists, the reasoning behind moral decisions is disconnected with philosophical reflection; for Scanlon's contractualism, the method behind everyday ethics and systematic moral philosophy are at bottom the same.

Third, why should we give the judgment that our inaction is wrong special priority over other values? Scanlon believes that his contractualist theory is most distinguished from rival moral theories in its account of moral motivation, for it can explain the "reason-giving force of judgments." To question the rightness of an act is, for Scanlon, to consider the agents with whom the act puts us into relationships. Here is the central question Scanlon thinks we should ask: what reasons might those affected by our actions have to object to our actions?

Unlike both strictly Kantian views and consequentialist views, Scanlon thinks that his version of contractualism better describes the diversity of moral motivations. This means that the person who saves the drowning child is acting for the right reasons even if she does not cite a Kantian notion of duty or a utilitarian metric of happiness as reasons for her action. To see the coherence of morality as justification, contrast it with Mill's bifurcated *Utilitarianism,* where right action is that which brings about the "greatest happiness for the greatest number" but the real motivation for acting rightly bears little relation to the happiness maxim. For Mill, we are moved by "the desire to be in unity with our fellow creatures."[49] Here, the deep reasons *why* we are acting right seem divorced from the reasons *why we should* act right.

If successful, Scanlon presents a neo-Kantian theory of right that can defeat the major critique against Kantian ethics, that it abstracts from the identity of persons, *and* the major critique against consequentialist ethics, that it abstracts from the separateness of persons. Any treatise on the foundations of morality will surely raise many more questions than it answers, and I want to conclude by presenting two objections for Scanlon's theory.

---

[49] Scanlon, p. 154.

IV. Criticisms of Scanlon's Theory

First, I wonder if a theory of reasonable rejection can properly account for institutional evils, which, by their nature, can be the result of individual choices which are in themselves unexceptional, but which collectively produce such present day realities such as large scale racism and sexism. A preliminary response is that Scanlon's contractualism has room for – indeed is essentially connected to – theories of institutional injustices, like *A Theory of Justice.* To the extent that contractualism is a persuasive moral theory, it can be paired up with *Theory* to respond to the recent claim by Liam Murphy that any conception of justice must be essentially connect to a moral theory in order to be plausible. (See Murphy's article, "Institutions and the Demands of Justice," from *Philosophy and Public Affairs*, Fall 1998.)

Second, we might be concerned that giving each person a reasonable veto about moral principles could lead to a paralysis in acting in the world. If we find compelling the intuition that "reasonable people can disagree," then it isn't hard to imagine a case where, when confronted with a tragic choice, we may imagine people who have legitimate complaints against our action *and* others with legitimate complaints against our inaction. This may be a case where Scanlon would welcome the indeterminacy of the result.

Certainly there is no one right answer to every moral question, and the ability of contractualism to permit some diversity of moral practices is attractive. On fundamental issues of gender equality and human rights, however, most of us believe there *are* correct answers, and some may want to believe that it is unreasonable for others to deny those principles. Can we confidently say that those who object to such core principles of equality and human rights are *un*reasonable? At least in everyday moral argument, the charge of unreasonability more often ends, rather than begins, the conversation.

V. Conclusion

Scanlon certainly won't have a simple answer to these questions. Every section of the book is marked by a keen awareness of just how complex our moral beliefs are. He acknowledges the limits of moral philosophy:

> T.M. Scanlon, *What We Owe Each Other* (Harvard, 1998), p. 359.
>
> One of the main ways in which theoretical reflection can advance our understanding, and help us to overcome moral disagreement, is by providing a more adequate understanding of these notions ... Inquiry of this kind may not yield systematic theories or novel principles that give clear distinctions about what to do in difficult cases. It may even make some decisions more difficult, or at least more complex, by dislodging overly simple misunderstandings of the relevant moral considerations. But it is not an insignificant form of progress, and

> it is, I believe, the form of progress that philosophical reflection is most likely to provide.

By these standards, *What We Owe Each Other* is an unequivocal success. Scanlon is moved by a profound openness to, and hope in, moral progress. His understanding of right and wrong is marked by humility, not marred by stubborn finality. It is difficult to theorize about the moral life, but even more difficult to actually live it. Scanlon's close scrutiny of the reason-giving force of morality will certainly help us with the former, and perhaps even the latter.

Virtue Ethics

In this essay I provide an introduction to virtue ethics and how it can be used when writing debate cases. Since virtue ethics is typically understood as the "third theory" after consequentialism and deontology, much of this essay is devoted to explaining how virtue ethics is distinct from these other theories.

Introduction

The philosophical study of ethics has three branches: *metaethics*, *normative ethics*, and *applied ethics*. Metaethics investigates the foundations of ethics. It inquires after things like the nature of moral language, moral facts, and moral properties. Normative ethics investigates the standards for ethical conduct. It inquires after what makes an action moral or immoral. Finally, applied ethics investigates the ethical status of specific actions. It assesses the moral status of things like abortion or euthanasia.

Virtue ethics is typically classified one of the dominant theories in normative ethics. This is because it is distinct from other normative theories like consequentialism or deontology in that it offers an account of what makes an action moral that is solely oriented around an agent's possession of certain virtues. In doing so, it boldly claims that an action's outcomes and its conformity to moral rules are insufficient to ground the status of the action as moral or immoral. But the significance of virtue ethics does not stop at normative ethics. Virtue ethics is latent with significant implications for various foundational questions in metaethics. Accordingly, this essay will focus on sketching virtue ethics as a broader theory about the nature of morality.

This essay will proceed as follows. In the next section I will explain virtue ethics, what it implies for metaethics, and consider the various ways a virtue ethicist can respond to the common objections to virtue ethics. In the third section before the conclusion I will provide practical tips about how to write virtue ethic cases. I will then conclude. However, one brief note is in order before we get started. Virtue ethics is easily the oldest theory in normative ethics that still has contemporary defenders. Unlike consequentialism or deontology, which are both relatively recent products of modern philosophy, virtue ethics is an ancient theory that has its roots in Aristotle's *Nicomachean Ethics*. In the following essay I will focus only on explaining virtue ethics as it is understood, defended, and articulated by contemporary virtue ethicists. The reason for this choice is pretty straightforward. Aristotle and other historical virtue ethicists are very difficult to read. As a result, they are very difficult to use as sources of evidence. Contemporary virtue ethicists are much easier to read and much easier to use as evidence. So I will focus on contemporary virtue ethics because it is much easier to implement their ideas in the context of a debate round.

An Explanation of Virtue Ethics

The Theory

Normative ethics is in the business of explaining the conditions under which an act is moral or immoral. In so doing, normative ethics guides our actions towards choosing to perform those actions that are determined to be moral. It will therefore be helpful to begin the discussion of virtue ethics by considering a particular example of an action and then sketching the various ways the action's moral status can be classified by familiar moral theories like consequentialism and deontology. Starting with an example will help bring into view the unique perspective offered by virtue ethics.

Consider an act of robbery. Choose any precious item you like and pretend that it is stolen. Now ask yourself: should that act of robbery have been performed? The answer to this question will ultimately depend on the procedure one uses to decide whether an action should or should not be performed. In fact, part of what theories within normative ethics do is spell out a decision procedure to help us decide when an act is moral or not. The consequentialist and the deontologist, for example, each offer a different decision procedure. In broad strokes, the deontologist's decision procedure consists of two steps:

> 1. Determine whether the action is in accordance with a moral rule or in violation of a moral rule.
>
> 2. If the action is in accordance with a moral rule and/or not in violation of a moral rule, then the action should be performed. If the action is in violation of a moral rule, then the action should not be performed.

The consequentialist offers a different decision procedure, but in equally as broad strokes, it is equally as simple:

> 1. Determine whether the action or its alternatives maximize the relevant overall utility.
>
> 2. If the action instead of its alternatives maximizes the relevant overall utility, then the action should be performed. If the action instead of its alternatives does not maximize the relevant overall utility, then the action should not be performed.

For each theory's decision procedure there is two steps: first, an assessment of the moral status of an action; second, a directive instructing how to act that is based on the action's status. Virtue ethics can similarly be framed as a decision procedure:

> 1. Determine whether the action is an action that a virtuous agent would characteristically perform in similar circumstances.

2.   If the action is one that a virtuous agent would characteristically perform in similar circumstances, then the action should be performed. If the action is one that a virtuous agent would not characteristically perform in similar circumstances, then the action should not be performed.

Presented as a decision procedure, there is a clear difference on the surface between the virtue ethicist and the other two theories. The virtue ethicist's decision procedure is oriented around what a virtuous agent would characteristically perform instead of being oriented around the action's utility or its conformity to a moral rule. In this way, virtue ethics is uniquely *agent-centric*. When considering whether an action is moral, it brings the agent's performing the actions back into the picture. So, whether an act of robbery is moral will depend on facts about agent and not about the act of robbery itself.

This surface-level characterization gives a handle on how virtue ethics is unique, but more needs to be said. The reason it is insufficient is that the phrase "*an action that a virtuous agent would characteristically perform in similar circumstances*" is ambiguous and this ambiguity threatens to collapse virtue ethics into either consequentialism or deontology too. Here is why. A virtuous agent, for example, might characteristically perform those actions that maximize utility or she might perform actions that conform to moral rules. That is, a virtuous agent might simply a person who acts according to consequentialism or deontology! If either of these options were true, then virtue ethics would merely be an agent-centric way of framing other theories. It would not make virtue ethics a distinct alternative to either consequentialism or deontology. So, virtue ethics departs from deontology and consequentialism in how it distinctively understands what it means for an action to be one that an agent would characteristically perform.

A virtuous agent can be understood straightforwardly as an agent who *has* and *exercises* virtues. But what are virtues? Different virtue ethicists provide different answers to this question. In this essay I am not going to survey the various in-house disputes among virtue ethicists. (The reading list at the end of this essay will contain references to such disputes, however.) Instead, I am going to offer a general definition to which most virtue ethicists would agree. Here is the first attempt at a definition: *virtues are reliable dispositions to act in a certain way for the right reasons.* Let's carefully unpack the various components of this definition. Virtues are *dispositions* in that they are ways people are inclined to act. They are *reliable* dispositions in that people are consistently and regularly inclined to act in certain ways. Consider the virtue of generosity as an example. A person who has the virtue of generosity is consistently inclined to give to other people. They don't exemplify this disposition only sometimes, giving only when it strikes their fancy. Generous people give all the time. This is what it means for them to be generous people. Yet virtues must also be consistent dispositions to act in a certain way *for the right reasons*. A person might be regularly generous not because they care about the well being of other people, but because they like the attention they receive when they are acting in a way that seems generous. The person who consistently is inclined to

give to others because of their care for others, however, is a virtuous person because they are motivated by care for others and not attention.

The agent-centricity of virtue ethics should be becoming clearer with this first stab at a definition. Other ethical theories like consequentialism typically identify a good person with a person who regularly performs actions that maximize utility. That is, they start with a definition of a good action and analyze a good person as someone who performs good actions. The virtue ethicist approaches things from the opposite angle. Instead of defining a good person in terms of good actions, they define good actions in terms of what makes for a good person. They start with the agent who performs the action: a good person is a virtuous person.

But what makes a good person a virtuous person? What is it about virtues that make having them good? It is in answering these questions that virtue ethics begins to get interesting. What makes for a good person, according to the virtue ethicist, is what makes any object a good object of its kind: it fulfills its function or purpose. A watch, for example, is a good watch insofar as it keeps time. We know that this is the purpose of a watch since all of the parts and components of the watch are united around the singular goal of keeping time. We humans are not too different. We are good humans insofar as we fulfill the purpose(s) of our kind. Such talk of "purpose" might initially seem spooky or religious. It doesn't have to be, however. Just like we discern the purpose of a watch by carefully examining it and analyzing the goals for which its parts collectively aim at achieving, we discern the purpose of a person by examining them and analyzing the goals that their parts collectively aim at achieving.

When analyzing human beings there are a variety of important purposes that can be observed. I will consider three in this essay. First, humans, like all living kinds of things, aim to survive. Consider our vital organs. The heart, lungs, kidneys, and other vitals, all work together to keep us alive. That is their collective function. Second, humans, like many mammals, are social animals. As any anthropologist will tell you, we thrive best in communities that enrich our lives. Third, humans, unlike all other living things, are rational. Rationality is important since it entails that humans are not limited to biological instincts. We can deliberate, debate, and decide to act in ways contrary to our instincts. Bears can't voluntarily be vegetarians, for example. They are animals that characteristically eat meat. But we have the freedom to act differently. In turn, this gives us the ability to continually pursue what is best for us in increasingly better ways. Our rationality thus gives is the ability to be *practically wise*. So, the way we go about living is something that is not static or fixed. The more we gain in wisdom, the more our lives improve because we are able to make better decisions about what is best for us and others.

We have been considering a few purposes characteristic of humankind, but now let's zoom out and see the collective significance of these purposes. At this point, we should see a worldview forming. The ultimate and highest purpose of humankind is not just to live. The purpose of humankind is to live well. Aristotle had a word for this: *eudaimonia*. Translators occasionally disagree about how to best translate this word, but it generally means something like "well being" or "flourishing." It is against the backdrop of this notion of flourishing founded on observations about our functions and purposes as human beings that the virtue ethicist clarifies

exactly what a virtue is. *Virtues are reliable dispositions to act in a way necessary for flourishing for the right reasons*. That is, they are those deep-seated character traits to act in a way that brings about human flourishing for both the actor and the society an actor is a part of. Consider, for example, the widely accepted virtue of generosity. Acts of generosity like giving to the poor benefit society by helping those in need and raising their quality of life. Such generosity, however, also increases the quality of life of the generous giver by ensuring that they more efficiently use their resources or property. In this way, virtuous action is not just in society's interest, but in our interest too.

I have not said much about vices yet, but now that we have a clearer idea of what a virtue is it is easy to see what a vice is. *Vices are reliable dispositions to act in a way contrary to what is necessary for flourishing.* As an example of a vice consider the various types of addictions. Addictions are deep-seated dispositions to act in a certain way. What's more, almost all addictions are habits that are harmful to the addict. Alcohol or drug addicts are notorious for destroying their own lives and the lives of those around them. Addictions are also helpful to consider because they underscore the way in which virtues and vices are deep-seated. It is very difficult to overcome an addiction. It is not the sort of thing you wake up and do some morning. A virtue should be similarly deep-seated. In the same way that an addict reliably acts according to their disposition, a virtuous person should reliability act according to their virtues.

More or less, what I have just explained is virtue ethics. It is a theory about how to act that is grounded in what virtuous agents would do and that understands what virtuous agents would do in terms of what brings about flourishing for things of our kind. At this point, therefore, it might be helpful to do a brief contrast with other theories in normative ethics.

Virtue ethics is fundamentally oriented around the end of flourishing. So virtue ethics is an ethical theory that is *teleological.* It has an eye towards the outcomes of actions. As a result, virtue ethics is unlike deontology, which is a not outcome oriented. On the other hand, this makes virtue ethics more akin to consequentialism, which is solely oriented towards outcomes. Yet consequentialism's *exclusive* focus on outcomes makes it incapable of capturing the virtue ethicist's target of human flourishing. This is why the consequentialist might say that the act of robbery should be performed when the virtue ethicist will say that it should not be performed. The consequentialist will solely look to the utility gained from the robbery and the virtue ethicist look to whether that is an action that is in accordance with virtue. The virtue ethicist but not the consequentialist will ask whether robbery is something a generous, charitable, and kind person would do. This is because virtue ethics derives the status of actions from agents instead of deriving the status of agents from actions. So even though virtue ethics and consequentialism are both teleological theories, they are distinct because of the virtue ethicist's agent-centric understanding of flourishing.

Implications for Metaethics

Recall that metaethics investigates questions related to the foundations of ethics. In this subsection I will sketch implications that virtue ethics has for two foundational questions.

Having reviewed the foundational concepts in metaethics will be helpful in understanding this section, but, if not, you should still be able to understand the metaethical significance of virtue ethics.

If moral claims are true, then there must be something that makes them true. This is because all truths have what philosophers call truthmakers. For example, if the statement "The Empire State Building is 1,454 feet tall" is true, then this is because the fact that the Empire State Building is 1,454 feet tall makes the statement true. The building itself, with its particular height, is the truthmaker. Similarly, if it is true that you are reading an essay on virtue ethics right now, this is true precisely because you are reading an essay on virtue ethics. Your act of reading this essay is the truthmaker for the claim "There is someone reading this essay right now." A foundational question in metaethics, therefore, asks what the truthmakers are for moral claims.

Most answers to this question about moral truthmakers can be classified as either naturalist or nonnaturalist. Naturalists claim that all truthmakers for moral claims are things in the natural world or things explainable in terms of the natural world. Naturalist consequentialists, for example, will point to pleasure and pain as natural phenomena that act as truthmakers for moral claims. They will argue that an act is moral if it maximizes utility and that we can determine whether an act maximizes utility by assessing the total balance of pleasure and pain had by people like us. Nonnaturalists, on the other hand, deny that truthmakers for moral claims are things in the natural world. They maintain instead that the truthmakers are unique non-natural properties.

Virtue ethics goes hand-in-hand with a type of naturalism. This kind of naturalism is typically referred to as "Aristotelian Naturalism." To see this type of naturalism in action clearly, consider the sentence "robbery is immoral." This sentence is true for the virtue ethicist because it is not the type of action a virtuous agent would characteristically perform. The reason it is not an action a virtuous agent would characteristically perform is because it is not the kind of thing that would lead to human flourishing. And the reason it is not the kind of thing that would lead to human flourishing ultimately depends on empirical, naturalistic facts about humans and the conditions under which they flourish. So, at bottom, what grounds and acts as the truthmaker for moral claims are facts about the natural world.

Since virtue ethics is a type of naturalism, it avoids all of the philosophical problems that plague nonnaturalism. J.L. Mackie (1977), for example, famously argued that nonnaturalism was untenable because it required positing "queer" things to be in the world to act as truthmakers for moral claims. In his words, there would have to be "entities or qualities or relations of a very strange sort, utterly different from anything else in the universe."[50] Yet virtue ethics easily avoids any problems with queerness by grounding morality in naturalistic facts about humankind and what are best for humankind to flourish.

---

[50] J.L. Mackie (1977). *Ethics* (Penguin Books), 38.

Virtue ethics as a unique form of naturalism is also able to avoid problems that afflict other types of naturalism. Namely, virtue ethics comes equipped with a solution to the is/ought problem. The is/ought problem is a problem pertaining to the distinctive natural of moral language that faces all metaethical theories, especially naturalistic theories. The problem is this: explaining how one can derive a moral or normative statement from a descriptive or factual statement. Offering such an explanation is incredibly difficult because of how different normative statements are from factual statements. For example, factual statements are typically easily verified. If we are wondering how tall the Empire State Building is, we go and measure it. Normative statements like "robbery is immoral" cannot be easily verified because there is no quick test that we can go out and perform. The subject matter of each statement is also very different. Factual statements are about things in the world. Normative statements do not appear to be directly about things in the world. They are instead seemingly about how to classify certain things in the world as "right" or "wrong." So explaining how one can derive normative statements from factual statements poses a challenge because of how different these types of statements seem to be. But virtue ethics can meet this challenge. Alasdair Macintyre suggests that the purpose of moral language is to evaluate objects according to whether they fulfill their purpose. As such, when any kind of object is fulfilling its purpose, which can be described factually, a normative statement can be used. Macintyre[51] provides these illustrating examples:

> To answer this question it is helpful to consider another type of counterexample to the 'no "ought" conclusions from "is" premises' thesis. From such factual premises as 'This watch is grossly inaccurate and irregular in time-keeping' and 'This watch is too heavy to carry about comfortably', the evaluative conclusion validly follows that 'this is a bad watch'. From such factual premises as 'He gets a better yield for this crop per acre than any farmer in the distinct, 'he has the most effective programme of soil renewal yet known' and 'his dairy herd wins all the first prizes at the agricultural shows', the evaluative conclusion validly follows that 'he is a good farmer.'

So virtue ethics, by grounding ethics on what is the purpose of human beings, is able to bridge the is/ought problem by deriving normative statements from factual statements. An act can be described as "moral" insofar as that act is one that a virtuous agent would characteristically perform because it fulfills that agent's purposes.

I will leave the discussion of the significance of virtue ethics for metaethics to these two issues. However, it is worth noting that virtue ethics also has implications for a variety of other disagreements in metaethics. These other disagreements include, but are not limited to, disagreements over how one's motivations must be to act morally, disagreements over whether morality is objective or relative, and disagreements over how it is that there can be

---

[51] Alasdair Macintyre (1981). *After Virtue* (Notre Dame University Press), 57-58.

moral progress. See the suggested readings at the end of this essay for references to sources that cover these topics.

Objections

Now that virtue ethics and its implications across ethics have been sketched, we can consider some of the common objections to virtue ethics. Most objections to virtue ethics are actually a variant of the same complaint. The complaint is that virtue ethics does not provide an adequate decision procedure for moral decision-making. In this sub-section I will present and rebut this objection and a few of its variations.

The objector to virtue ethics would reason as follows. The purpose of morality is to guide action. That is, the purpose of morality is to provide a decision procedure for determining when to act and when to not act. If a theory in normative ethics fails to provide an adequate decision procedure, then that theory fails to satisfy the very purpose of morality. Virtue ethics, as a theory in normative ethics, fails to provide an adequate decision procedure. So virtue ethics is a defective theory.

Why might the objector think virtue ethics fails to provide an adequate decision procedure? The first reason is that virtue ethics is not always articulated in such a way that it does provide a decision procedure. It sometimes takes the unhelpful form of issuing various imperatives like "be virtuous," and such imperatives do not shed much light on whether a particular action ought to be performed or not. In this essay I have cheated a bit. I knew this objection was coming and so I articulated virtue ethics as a decision procedure, but a lot of virtue ethicists do not articulate their theory in such a way. So this initial variation of the objection is not very sophisticated.

A more sophisticated variant of this objection argues that we do not always know what a virtuous agent would characteristically perform in similar circumstances. Absent this knowledge, we therefore lack the ability to effectively implement the virtue ethicist's decision procedure. So the virtue ethicist's decision procedure fails to guide action. The virtue ethicist can respond to this objection in a few different ways. First, they can point out that ignorance poses a problem for all decision procedures. When using the consequentialist's decision procedure, for example, we often do not know which action is the action that best maximizes utility. Absent this knowledge, we cannot implement their decision procedure either. Similarly, if we do no know what all the moral rules are that must be obeyed, then we will not be able to implement the deontologist's decision procedure. Thus ignorance is not a problem unique to virtue ethics. Second, the virtue ethicist can argue that her theory is uniquely equipped to explain why there is an ignorance problem in the first place. Rosalind Hursthouse puts it this way,

> The effort of trying to imagine someone reaching correct moral decision about what to do by cranking through a decision procedure without exercising

judgment (which really does call for a great stretch of the imagination) may bring one to another (insufficiently acknowledged) insight of Aristotle's—namely, that moral knowledge, unlike mathematical knowledge, cannot be acquired merely by attending lectures, and is not characteristically to be found in people too young to have much experience of life. We do not think of moral or practical wisdom—of knowledge of what one should do—as easily come by, as something that an adolescent is likely to have, even if the adolescent is a genius at mathematics or science or the stock market and has been to lectures on normative ethics.[52]

This underscores the importance of practical wisdom, which I was stressing in an earlier section. Humans are uniquely equipped to have practical wisdom because humans uniquely have the ability to reason. So, moral knowledge is more than just a decision procedure we can "crank through." The having of moral knowledge requires us to fulfill one of our functions, which is having practical wisdom. As such, if we do not know how to act this is probably because we lack the wisdom needed to discern how to act. The virtue ethicist can thus offer a robust explanation of our ignorance: we are not fulfilling all of our functions. This is arguably a benefit of virtue ethics too since it is not obvious that other theories are equipped to offer such explanations.

The objector to virtue ethics might still persist and draw our attention to difficult moral dilemmas. In a variety of moral dilemmas, virtue ethics is ill equipped to provide a solution. Even agents we would identify as virtuous agents do not know how to proceed in difficult dilemmas. Other moral theories, however, are able to make more headway against dilemmas. Consequentialism, for example, appears to have the advantage over virtue ethics because of how simple its decision procedure is. All we have to do to determine how we ought to act is count up the utility. Once the utility of the action has been accounted for, we know how to act.

Not all virtue ethicists agree on what is the best response to this particular objection. So, I will outline one response. The response is this: there is no good reason to think that all dilemmas are solvable and there is good reason to think that they are not solvable. To prime the pump for this response ask yourself: why think that all moral dilemmas have solutions? It is hard to have an answer to this question that is something more substantive than mere optimism. One argument might be that some moral dilemmas have plausibly been solved and so we should expect to solve some more dilemmas. The problem with this argument, however, is that it offers no reason to think that a particular dilemma is solvable. It only provides a basis for the very general belief that other dilemmas could be solved. Consider, however, the dominant reason for thinking a particular dilemma is not solvable. Namely, the fact that many moral dilemmas have been analyzed for hundreds of years and there is still no consensus on how to solve them. The simplest explanation or this abject failure is that the dilemmas are not solvable. So some virtue ethicists admit that they cannot solve every moral dilemma, but they argue that

---

[52] Rosalind Hursthouse (1999). *On Virtue Ethics* (Oxford: Oxford University Press), 59-60.

it is an advantage of their view that it does not entail that all dilemmas are solvable, which other views, like consequentialism, arguably do.

Debating With Virtue Ethics

The past section and its subsections have been very abstract and theoretical. Let's now turn to practical tips for incorporating virtue ethics into debate. If you have been reading with an eye towards debating with a virtue-theoretic case, then you will have realized the many benefits of virtue ethics for specific debates that frequently occur in debate rounds. In this section I am not going to focus on the benefits of virtue ethics for specific line-by-line debates about value/criterion frameworks. Instead, I am going to discuss the general ways virtue ethics can be utilized when constructing a value/criterion framework.

The chief benefit of using virtue ethics is that it is a theory that is distinct from both deontology and consequentialism, but yet it still incorporates a variety of the insights made by the other two theories. As a result, virtue ethics can be implemented in a debate round in one of two ways.

The first way virtue ethics can be implemented is that virtue ethics can be used to justify another theory in normative ethics. Recall that, at the outset, we needed to get clear on how virtue ethics did not collapse into either deontology or consequentialism. This was not an easy task. The success of this task depends on unpacking what, exactly, a virtue is. On this way of implementing virtue ethics one would encourage the collapse of virtue ethics into one of these others theories by explaining what a virtue is by reference to another normative theory. As such, one could construct a case built around the virtue ethicist's perspective of morality, drawing arguments from their unique metaethics and unique decision procedure, but use this unique perspective to justify another theory in normative ethics like consequentialism. Julia Driver, for example, argues in her book Uneasy Virtue that a virtue is best understood as a disposition that systematically produces good consequences. As a result, she ultimately ends up defending a consequentialist theory, but a consequentialist theory that is heavily shaped by virtue ethics.

The benefit of defending a consequentialist theory like Driver's in a debate round is that one can have a consequentialist value/criterion framework for her case, but justify the value/criterion framework using different arguments to justify consequentialism than those that are typically used. This allows one to have a novel twist on consequentialism that is not susceptible to the usual objections and problems that consequentialism is susceptible to when it is not shaped by virtue ethics. Of course, consequentialism is not the only theory that virtue ethics could be used to justify. Virtue ethics has a lot in common with deontology too. Both theories, for example, stress the importance of an agent's rationality. So virtue ethics could also be used to justify deontology. To justify such a virtue ethics infused deontology one would merely need to argue for an understanding of virtue that orients around the importance of following moral rules. One would then have all of the same benefits of justifying

consequentialism with virtue ethics. That is, one would justify deontology in a novel way so that it is not vulnerable to the usual objections that are made against deontology.

The second way to implement virtue ethics is to implement the entire virtue ethics picture of morality. Instead of using virtue ethics to offer a novel justification of other theories in normative ethics, one uses virtue ethics just the way it is. Generally, theories in normative ethics are implemented in debate by having them shape how one constructs her value and criterion. So, how would one go about doing that with virtue ethics? I am of the opinion that there should always be little or no debate over the value. Both debaters should make their value something like "morality" and then have the remainder of the debate over the value/criterion framework focus on which criterion the judge should use to evaluate the round. On this way of thinking, debaters should agree that what they are fundamentally valuing is morality, but disagree over the nature of morality and how the morality of actions is determined. Virtue ethics would therefore be relevant as a theory about what morality is and what the decision procedure should be for moral decision-making. In the context of a debate round, the criterion is the decision procedure. It is the means by which the judge decides whether or not to affirm or negate the resolution. So, I will focus in the remainder of this section on how to choose a criterion and write related contentions when writing a virtue ethics case.

Most criteria used by debaters are consequentialist criteria like "minimizing suffering" or deontological criteria like "ensuring respect for human dignity." A virtue ethics criterion would be similar. After arguments were presented about why virtue ethics is the optimal moral theory one could have a criterion like "ensuring virtuous action" or "maximizing virtuous action." Now, to be sure, these examples of virtue-theoretical criteria sound like criteria had by deontological or consequentialist cases, but this should not be a surprise given the similarities virtue ethics has with both of these theories.

A few examples might be helpful to explain how these kinds of virtue-theoretical criteria would function as decision procedures for the judge, especially in relation to virtue-theoretic arguments being made in the contention. Let's therefore consider a few past topics. Consider first how we might write an affirmative case on the topic "In matters of collecting military intelligence, the ends justify the means." A virtue ethics affirmative on this topic would begin by valuing morality and by providing an explanation of how virtue ethics best explains both the nature of morality and how to decide when an act is moral or not. The case would then present a criterion like "ensuring virtuous action." At the contention level of the case there would then be arguments contending that we do not ensure virtuous action when we only prioritize the ends of military intelligence. For example, since an ends-based approach to gathering military intelligence would probably deploy torture as a tactic for gathering intelligence the arguments at the contention level could contend that torture is not the kind of thing that a virtuous agent would characteristically perform in similar circumstances. The warrants for these kinds of arguments would be explanations about which specific virtues were not being manifested (e.g. charity, generosity, benevolence) or they would be more general explanations about what it means to be a human and what our purposes are as a distinct kind of living thing. In broad

strokes, that is what a virtue-theoretic affirmative would look like on the military intelligence topic.

Consider next how we might write a negative case for the topic "It is morally permissible for victims to use deadly force as a deliberate response to repeated domestic violence." The value analysis of such a negative case would be almost identical to the value analysis of the affirmative I sketched on the other topic. It would explain how virtue ethics is the best theory of morality. The criterion would also be something like the one used above or it could be something like "performing actions that a virtuous agent would characteristically perform." The arguments in the contentions, then, would be different because they would be about how a virtuous agent would not use deadly force as a deliberate response to repeated domestic violence. Such arguments would maintain that deadly force is not a virtuous response to domestic violence by making reference either to particular virtues or general facts about the purposes we have as humans. Let's consider one final topic: "development of natural resources ought to be valued above protection of the environment." An affirmative or negative case similar to the cases I have been sketching could easily be written for this topic. But there is another slightly different way a virtue ethics case could be written for the negative. Although the value/criterion framework would be the usual story I have been telling, the arguments in the contention could argue for the existence of a new virtue like environmental care that we should cultivate. In fact, virtue ethicists, when applying their theory to environmental ethics, often make this kind of case for environmental protection. They argue that caring for the environment is a virtue and that this is the reason for why we should highly value the protection of the environment.

In sum, a value/criterion framework built on virtue ethics will operate like most value/criterion frameworks, but there are three types of arguments that can be made at the contention level. First, there are arguments that can be made pertaining to how certain virtues are not acted upon or manifested. The act of torture, for example, is not a benevolent act. Second, there are general arguments about what it means to be human and what is required for human flourishing. Since something is a virtue only if is necessary for bringing about flourishing, one can go directly to talking about human flourishing when making arguments about what is and is not a moral action. Third, there are arguments that maintain that there is some new overlooked virtue and it is this overlooked virtue that is not being acted in accordance with. This is the type of argument being made in the last example with the new virtue. So a virtue ethics case will not be too different from consequentialist or deontological cases. Its uniqueness primarily lies in the fact that it offers a distinctive perspective on morality.

Conclusion

In these briefs pages I hope I have convinced you of at least one thing: that virtue ethics is a theory of morality that is worth exploring because it offers a unique perspective on a variety of issues in normative ethics and metaethics. If you have been convinced, then I want to stress one point. This essay has been merely an introduction to virtue ethics. Reading this essay is the

beginning of research and not the end. As such, I will end this essay like all good introductory essays should: with a recommended reading list.

Reading List

Adams, Robert Merihew, 2006, *A Theory of Virtue*, New York: Oxford University Press.

Audi, Robert, 2009, "Moral Virtue and Reasons for Action", *Philosophical Issues*, 19: 1–20.

Chappell, T. (ed.), 2006, *Values and Virtues*, Oxford: Oxford University Press.

Crisp, Roger (ed.), 1996, *How Should One Live?* Oxford: Clarendon Press.

Crisp, Roger and Michael Slote (eds.), 1997, *Virtue Ethics*, Oxford: Oxford University Press.

Doris, John M., 1998, "Persons, Situations and Virtue Ethics", *Noûs*, 32 (4): 504–30.

Driver, Julia, 2001, *Uneasy Virtue*, New York: Cambridge University Press.

Foot, Philippa, 1978, *Virtues and Vices*, Oxford: Blackwell.

Gardiner, Stephen (ed.), 2005, *Virtue Ethics, Old and New*, Ithaca: Cornell University Press.

Gowans, Christopher W., 2011, "Virtue Ethics and Moral Relativism", in Stephen D. Hales (ed.), *A Companion to Relativism*, New York: Oxford University Press, pp. 391–410.

Hacker-Wright, John, 2007, "Moral Status in Virtue Ethics", *Philosophy*, 82: 449–73.

Hurka, Thomas, 2001, *Virtue, Vice, and Value*, Oxford: Oxford University Press.

Hursthouse, Rosalind, 1990–1, "After Hume's Justice", *Proceedings of the Aristotelian Society*, 91: 229–45.

——, 1999, *On Virtue Ethics*, Oxford: Oxford University Press.

MacIntyre, Alasdair, 1985, *After Virtue*, London: Duckworth, 2nd Edition.

McAleer, Sean, 2007, "An Aristotelian Account of Virtue Ethics: An Essay in Moral Taxonomy", *Pacific Philosophical Quarterly*, 88: 308–25.

Swanton, Christine, 2003, *Virtue Ethics: A Pluralistic View*, Oxford: Oxford University Press.

van Zyl, Liezl, 2009, "Agent-Based Virtue Ethics and the Problem of Action Guidance", *Journal of Moral Philosophy*, 6 (1): 50–69.

Walker, Rebecca L. and Philip J. Ivanhoe (eds.), 2007, *Working Virtue*, Oxford: Oxford University Press.

Moral Obligation and Supererogation

By Eric Pai

This essay begins by describing various ways that moral theories claim to generate moral obligations, and delineates among different common forms of obligation deployed in LD Debate. In Section II, the essay discusses the concept of supererogation, or acts which go beyond moral duty.

Debaters tend to think about LD and its issues in a simple dichotomy of right or wrong. If we consider the influences at work, they can hardly be blamed. Comparative resolutions are carefully and rigidly framed to force conflict between two values, and the prevailing trend is to discourage balance cases which value them "equally." We ought to do what's right and good, and we ought to refrain from what's wrong and bad. But are there any gray areas? Am I *required* to perform every action that can be deemed morally good? It hardly seems possible – I would literally have to abandon all of my own projects and devote the rest of my life to helping others. And while this may be a praiseworthy way of life, it is not an obligatory one.

Thus, the concept of supererogation seems intuitively necessary. The term is probably as unfamiliar as it is difficult to pronounce, but the idea is simple: **There are certain actions which are good, but not demanded by morality.** Of course, the issue becomes more complicated when we try to find its exact meaning and make it a category within a moral theory. These problems are preceded, however, by that of deciding what moral theory we will accept in the first place. In this article, I will first discuss the nature of moral obligation from a broad perspective, and then consider how supererogation fits (or does not fit) within various moral theories.

I. Moral Obligation

The importance of moral obligation in LD is usually thought to derive from the use of "ought" in resolutions. In reality, "ought" may indicate more than either morality or obligation. For example, the resolution, *Violent juvenile offenders ought to be treated as adults in the criminal justice system*, seems to concern justice and fairness rather than moral goodness. It also seems to ask what the *ideal* or *prudent* principle of treatment would be, not what an obligation entails. Obligations could come into play as side issues, but it would be difficult to channel the force of your main arguments through them.

Moral obligation generally becomes a more central issue on topics that focus on evaluating individual action. The resolution, *When called upon by their government, individuals are morally obligated to risk their lives for their country*, deals explicitly with the nature of moral obligation. The implications of (tacit) promises to one's government will have to be weighed against considerations of whether self-sacrifice is required.

Notice how the above two concerns, promising and risking harm to oneself, each play a role in determining whether the individual has a moral obligation. Shelly Kagan refers to these types of concerns as *normative factors*.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 17.
>
> "Whether a given action is required, permitted, or forbidden is typically a function of several different morally relevant factors. Much of the work of normative ethics is a matter of articulating these various *normative factors*, and discovering how they interact so as to determine the moral status of an act."

Duty vs. Obligation

So far, I have been using the term "moral obligation" in the generally understood meaning of something a person is required to do because of its rightness. The field of ethical philosophy, however, has its own specific definitions and distinctions, which are not always in agreement. John Rawls, for instance, underline differentiates between obligations and duties.

> John Rawls, *A Theory of Justice*, Harvard University Press, 1971, p. 114.
>
> "Now in contrast with obligations, it is characteristic of natural duties that they apply to us without regard to our voluntary acts. Moreover, they have no necessary connection with institutions or social practices; their content is not, in general, defined by the rules of these arrangements."

So basically for Rawls, an obligation entails an act you are bound to perform because of something *you* did, say, a benefit you accepted or a promise you made. A natural duty, on the other hand, concerns an act you are required to do, period. There is no prior condition required before a natural duty arises. For example, you have a natural duty not to kill other people, even though you have made no promises to that effect.

Other philosophers, such as Immanuel Kant, do not distinguish between duties and obligations, much as the typical everyday person does not see the reason for a semantic difference. Kant does define several other complex details concerning duties or obligations, but we will not concern ourselves with excessive vocabulary here. Instead, I will move on to discuss some of the normative factors mentioned earlier. For fear of presenting nothing more than a *Cliffs Notes* summary of the prominent moral philosophers, I will also point out ways in which the issues can actually be applied to debate topics.

Perhaps the simplest way of determining our obligations is to look to promoting the good. The content and meaning of "good" varies, of course, depending on who you ask, but there are some basic principles we are all likely to believe in. For instance, we think of it as good to save

someone's life, even if this should consist merely of throwing a life preserver to a drowning person. However, whether good is the only factor that should count morally is a more tenuous view.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 71.
>
> Imagine that there are five patients, each of whom will soon die unless they receive an appropriate transplanted organ: one needs a heart, two need kidneys, one needs a liver, and the fifth needs new lungs. Unfortunately, due to tissue incompatibilities, none of the five can act as donor for the others. But here is Chuck, who is in the hospital for some fairly routine tests. The hospital computer reveals that his tissue is completely compatible with the five patients. You are a surgeon, and it now occurs to you that you could chop up Chuck and use his organs to save the five others. What should you do?

It goes against our moral intuition to accept this gruesome solution, even though the overall consequences will produce more good than simply allowing the five patients to die. It seems a more moderate view, one that takes other normative factors into consideration, will be necessary. There are still those who would insist, though, that maximizing the good alone should determine moral obligation. This view is called *consequentialism*.

Consequentialism

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 61.
>
> First of all, according to consequentialism, the agent is morally required to perform the act with the *best* consequences.

Consequentialism carries a heavy demand – it declares that among the various good options I might have, I am *morally obligated* to choose <u>the</u> very best one. In LD, the form of consequentialism that is most frequently encountered is probably *utilitarianism*, which defines the good in terms of well-being. Because utilitarianism tends to be too philosophical-sounding in debate rounds, and because many debaters have prepared response blocks against it as a value, it is often disguised by other names like individual welfare or justice. Don't be fooled – clarify in cross examination, and attack on the basis of what they actually mean. Intuitive examples like Kagan's hospital dilemma serve as powerful illustrations, if not as arguments on their own.

This is a good time to introduce the distinction made by philosophers between *the good* and *the right*.

> John Rawls, *A Theory of Justice*, Harvard University Press, 1971, p. 24.
>
> The two main concepts of ethics are those of the right and the good; the concept of a morally worthy person is, I believe, derived from them. The structure of an ethical theory is, then, largely determined by how it defines and connects these two basic notions.
> Philip Pettit, "Consequentialism," *A Companion to Ethics*, edited by Peter Singer, Blackwell Publishers, 1991, p. 230.
>
> This first component of a moral theory is sometimes described as a theory of value or a theory of the good. The second component which every moral theory involves is often described in parallel as a theory of the right. It is a view, not about which properties are valuable, but about what individual and institutional agents should do by way of responding to valuable properties.

Our intuitive sense of moral obligations (required actions) tends to arise from theories of the right, while morally good acts fall under theories of the good. Consequentialist theories cause this line to break down by defining the right as simply maximizing the good.

Deontology

Naturally, there is an opposite view to consequentialism, which is called *deontology*. I should point out that the exact definition of these terms, deontology and consequentialism, may vary slightly depending on who you ask (for instance, several authors use *teleology* instead of consequentialism as the contrasting term for deontology), but they are generally used in about the same way. One common way of defining deontology is through its contrasting account of the right and the good – that the right is *prior* to the good.

> Chandran Kukathas & Philip Pettit, *Rawls: A Theory of Justice and its Critics*, Stanford University Press, 1990, p. 54.
>
> A deontological theory asserts that what is right does not depend on, but is independent of, what is good. So, for example, that we should keep our promises is not determined by the good consequences, if there are any, of doing so; right conduct requires us to keep promises, and this injunction is in no way dependent on the goodness of keeping promises.

This formal definition is not especially helpful for our current purposes, so we will consider deontology in terms of how it weighs normative factors against each other.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 73.
>
> Similarly, if we hope to capture contemporary usage, it won't quite do to label as deontologists all those who accept additional normative factors, beyond that of goodness of results: we must add the further stipulation that in at least some cases the effect of these additional factors is to make certain acts morally forbidden, even though these acts may lead to the best possible results overall. In short, we must say that deontologists are those who believe in additional normative factors that generate *constraints*. (Emphasis added)

Thus arises the conflict between deontology and consequentialism: deontology places constraints, or limits, on the range of permissible actions in pursuing the good. In the hospital example, a constraint forbids you from *harming* Chuck and using his organs for the greater good.

For the purposes of debate rounds, you should note a point illustrated by this example. A debater running utilitarianism might claim that "as long as the good outweighs the harm, we have a morally acceptable situation." This sounds reasonable, on face. However, if we take "outweighing" to be a purely quantitative judgment, we would have to condone killing one person (Chuck) to save five lives. So be careful about granting vague moral assertions which have been abstracted too far from our intuitions.

Constraints and Checks

Returning to the idea of *constraints*, let us consider how this concept might come up in a debate round. A common type of argument in LD deals with *checks*, which are essentially constraints. Checks are intuitively powerful because they illustrate the priority of one value over another. On the resolution, *A just social order ought to place the principle of equality above that of liberty*, some affirmatives ran positions claiming that equality was an essential check on liberty, preventing abuses of liberty and giving equality priority as a value. While the argument was beatable, it became a thorn in the side of many negatives because of its intuitive force.

Debaters who ran this check argument were probably appealing to, at some level, a constraint against harm.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 78.
>
> In point of fact, we have already identified one further factor that, it seems, must be embraced if we hope to capture something like our ordinary moral intuitions: if an act involves *doing harm*, then this is a highly relevant fact about it, and it weighs in heavily against the moral permissibility of the act.

Notice that constraints and checks seem more directly related to whether an action is permissible than to whether it is morally obligatory. However, merely change the focus of thought, and you come up with the claim that there is a moral obligation *not* to violate the constraint against harm – *not* to harm someone. Such obligations to refrain from action are called *negative* obligations. In contrast, obligations to perform action are *positive* obligations.

Negative and Positive Obligations

Negative obligations are acknowledged by most people. Not interfering with someone else's life is asking very little. There is disagreement among ethical theories as to whether positive obligations should be truly binding on the individual, as they naturally demand more. I will not go into more detail concerning this philosophical debate, since it has already been discussed at length in the first *Value Handbook*. Additionally, as with nearly all attempts to draw simple dichotomies, the line between negative and positive obligations blurs in some instances. This is the one point I wish to make.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 131.
>
> In at least some cases, however, we find ourselves more puzzled. Consider the general requirement to keep your promises. At first glance, this may strike us as being a positive duty: to satisfy it you must *do* something, *keep* your promises. But our intuitions shift if we redescribe this very same requirement in the language of constraints. For now we have a constraint against *breaking* your promises, and this makes it sound like a negative duty.

Kagan gives one explanation for how this apparent ambiguity can be reconciled.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 131.
>
> The *particular* obligations that we find ourselves under, thanks to the specific promises we have made, are often positive duties. Thus, promising can generate positive duties – to lend you my car, to meet you after work, or what have you. For the same reason, any particular promise made may well constitute a positive duty. But the *general* requirement to keep one's promises is actually – despite initial appearances – a *negative* duty. One can meet this obligation perfectly well without doing anything at all (provided that you make no promises), and this is the mark of a negative duty.

The suggestion that a positive obligation only arises when the individual has acted in some way to bring that obligation upon herself is reminiscent of Rawls's distinction between natural duties and obligations. In any case, this view takes the moderate ground between denying the existence of any positive obligations and demanding too much of the individual. Positive obligations can arise, but they are avoidable under this approach.

Realistically speaking, however, it would be impossible to completely avoid incurring some particular positive obligations. As a matter of lifestyle, we sign contracts, take out loans, make dates, and borrow things from friends all the time. Personally, I would find this a defensible position for a debate round, as it is unlikely to add very much to your burden on a resolution, and sounds less harsh than the view that we should only look to negative obligations.

Promising

Let us now examine the idea of promising and its related constraint against breaking promises. Promising usually holds some value in terms of promoting the good, which will be the reason consequentialism generally supports it as well.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, pp. 116-117.
>
> Often this need for reliable reassurance is mutual. For example, each of the two of us might need the help of the other to achieve our own distinct goals (I might need your help plowing my fields, while you need my help picking your crops). Each of us might be willing to help the other, but only given adequate reassurance that the other person will return the favor. Promises make such reassurances possible, allowing both of us to better achieve our own personal goals.

So making promises and keeping them might produce good consequences: in this case, both people's farming needs will be met. But it hardly makes sense to say that you are morally obligated to keep a promise only if it produces good effects.

> Will Kymlicka, *Contemporary Political Philosophy*, Oxford University Press, 1990, p. 21.
>
> If someone lends me $10, then she is entitled to receive $10 back from me, even if someone else could make better use of the money. Utilitarian reasoning disregards such backward-looking entitlements, for it says that only forward-looking consequences matter. For the U-agent, the moral value of an act lies solely in its causal properties of producing desirable states of affairs.

We are likely to find it more reasonable that promises should be kept, even if breaking them would lead to better results. But should promises be kept at all costs? Probably not.

> Will Kymlicka, *Contemporary Political Philosophy*, Oxford University Press, 1990, p. 22.
>
> Unlike the hard-line non-consequentialist, we need not say that these

entitlements are indefeasible by any calculation of overall social consequences. If repaying the loan would somehow lead to nuclear destruction, then we clearly ought not to repay the loan. But we can say that there is a duty to repay loans and fulfill contracts which has some independent weight, to be considered alongside the moral weight of overall social benefits.

Given this view, good consequences can become large and important enough that they can outweigh constraints such as keeping promises.

Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 79.

Presumably, killing an innocent person is morally forbidden even if this is the only way to save five, ten, or maybe even a hundred or a thousand people – but at *some point*, when the amount of good that needs to be done is great enough, the constraint is overridden, and it is morally permissible to act.

I hope you are beginning to see a common theme: extreme positions tend to conflict with our everyday intuitions about right and wrong. While it is possible that some of these intuitions may ultimately be incorrect or misleading, they are probably the same ones your judges will have. So, unless you have a strong, compelling argument that will persuade people to change their intuitions, I would recommend adopting a moderate approach that fits reasonably with those intuitions.

Consent

The last normative factor I wish to consider, and which often has importance in LD, is consent.

Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 88.

We might think of it like this: the constraint against harming protects the individual against being mistreated in various ways. It provides a moral safeguard against his being harmed *against his will*. But if the individual chooses to forego this protection – if for various reasons he *agrees* to being harmed – then the harm no longer constitutes *mistreatment*. In such cases, the protection that is normally in place disappears, and the constraint loses its force.

It is sometimes argued that if an individual making his own decision decides to take a risk he consents to the possibility of harm. In that case, the moral obligation to prevent that harm vanishes. This doesn't seem entirely right though. Just because I consent to being pushed off a cliff doesn't mean that you ought to push me off that cliff; hence, the notion of *rational* consent.

Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 89.

Perhaps consent has its normal effect only when the person is rational, and only if the decision is informed by full and accurate knowledge of the facts. (In many institutional contexts there is a corresponding requirement that one get 'informed consent.' Perhaps consent only has its normal effect if it is backed by good and sufficient reasons.

But if we are to judge what is considered rational, we might as well determine moral obligations without paying any attention to whether someone consents or not. We could hardly claim to value people's decisions if we ignore them whenever we disagree. Letting people make choices we deem unwise may still be valuable, if only to let them learn from the consequences. Unfortunately, many lessons may be inapplicable later on – I'm unlikely to survive the fall off the cliff to know not to do it next time. So as far as consent goes, I think it's a fully debatable issue whether it changes the nature of our moral obligations.

To conclude this section on moral obligation, I have a few suggestions on how to run moral theory in debate rounds:

• First, think twice about running pure consequentialism or deontology in the extreme. We've already seen several cases where this can be easily made to look unreasonable.

• Secondly, don't introduce unnecessary vocabulary into rounds if it will only confuse the judge. Consequentialism and deontology both have meanings that we can all grasp, but the words themselves are not necessarily familiar, nor do they roll off the tongue very easily. Getting your point across matters more than any philosophy jargon you are able to introduce.

• Finally, use intuitive strengths of moral theories to your advantage. We believe that you can't just dismiss a promise to pay back a loan on a whim and use the money for some greater purpose, yet most of us also believe that such constraints are not absolute if enough good is at stake. Play on such beliefs when you weigh issues in a round.

II. Supererogation

Having established an understanding of moral obligation, let us jump straight into defining supererogation. We already have a working definition from our opening discussion.

Gregory Mellema, *Beyond the Call of Duty: Supererogation, Obligation, and Offence*, State University of New York Press, 1991, p. 3.

It is often said that works of supererogation involve going beyond the call of duty, doing good in a way which transcends the requirements of moral obligation.

However, if we are to classify acts as supererogatory, we need to work with something more precise. Most formal definitions present a set of specific criteria for this purpose.

Gregory Mellema, *Beyond the Call of Duty: Supererogation, Obligation, and Offence*, State University of New York Press, 1991, p. 3.

It will be my contention throughout the course of this discussion that an act of supererogation can be identified by its possession of three characteristics. First, it is an act whose performance fulfills no moral duty or obligation. Second, it is an act whose performance is morally praiseworthy or meritorious. Third, it is an act whose omission is not morally blameworthy.

David Heyd, *Supererogation*, Cambridge University Press, 1982, p. 115.

An act is supererogatory if and only if:

(1) It is neither obligatory nor forbidden.

(2) Its omission is not wrong, and does not deserve sanction or criticism – either formal or informal.

(3) It is morally good, both by virtue of its (intended) consequences and by virtue of its intrinsic value (being beyond duty).

(4) It is done voluntarily for the sake of someone else's good, and is thus meritorious.

These two definitions differ slightly, as Heyd's is more specific and limiting. Heyd adds the condition that the act must have voluntary intent. This would exclude coerced or accidental acts that turned out to produce results that were otherwise the same as supererogatory acts. Heyd also requires that the results are indeed good ones. Our earlier understanding of theories of the good will inevitably become important now.

Because supererogation is not an often-heard concept in LD, let me clarify our in-the-round purpose in this section. Most resolutions, if they are explicitly concerned with morality, will use the terms "moral," "morally justified," or "moral obligation." The first two terms require the affirmative to prove something to be morally good or acceptable, while the third adds the burden of proving something to be *required*.

The affirmative could choose to employ supererogation if either "moral" or "morally justified" is used, since a supererogatory act is certainly both good and permissible. However, this would

prove to be, in my opinion, a foolish strategy. It is generally more difficult to prove something supererogatory, and such a position only places more burdens on itself. The very act of defending this affirmative position could almost be called supererogatory.

A more logical application of supererogation to debate rounds would be for the negative on resolutions using "moral obligation," or otherwise demanding that a certain act be performed. With this position, the negative would claim that the act is supererogatory – that it goes beyond moral obligation – so there can be no moral obligation to perform it. Thus, rather than proving that there is something wrong or bad about a given action, you instead accept that it may be good, but that it is simply too demanding to be *required* or *mandatory*.

Some people might also advocate such an approach for the negative with resolutions using the term "ought." For example, Victor has suggested this strategy on the September-October topic concerning cultural sensitivity and commercial speech. While I think this is a viable position, I would use it with caution. Consider, as we did earlier, the other definitions of "ought" aside from "moral obligation."

> The American Heritage College Dictionary, Houghton Mifflin Company, 1993, p. 968.
>
> "**ought**[1] (ôt) aux.v.
> **1.** Used to indicate obligation or duty: You ought to help.
> **2.** Used to indicate advisability or prudence: You ought to wear a raincoat.
> **3.** Used to indicate desirability: You ought to have been there; it was great fun."

So "ought" can mean things other than duty and still have a normative (value-based) quality. It could be referring to pragmatic or desirability concerns, neither of which is necessarily an evaluation of duty. Often, it feels as though resolutions combine all three meanings, even though debaters only read the first one. Thus, I would advise careful consideration before running a supererogation position on such topics.

Now, with some purpose in mind, we will look at how supererogation interacts with moral theories. It seems to cause some difficulty for both consequentialism and deontology, assuming we accept that some acts should be deemed supererogatory.

Recall that consequentialism basically consists of maximizing the good – producing the *best* possible consequences. Consequentialism seems to demand too much by including everything that is good and making it required, leaving no room for *optional* good acts.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 156.
>
> You are on your way to buy a stereo, when it occurs to you that the hundreds of dollars could do far more good were they sent instead to an appropriate charity.

> You are on your way out to eat, when it occurs to you that you could eat at home far more cheaply, and the extra money could be sent to charity as well. Similar thoughts occur to you as you set out to purchase expensive gifts for your friends, a luxury automobile, or comfortable furniture. In each case there is some 'bare bones' alternative available to you, and the savings could be sent to charity.

There is no reason that pure consequentialism should stop with your wealth either; it may as well ask for your life, which is what it does.

> Shelly Kagan, *Normative Ethics*, Westview Press, 1998, p. 157.
>
> Similarly, recall the organ transplant case, from 3.1, and imagine that you are Chuck. According to consequentialism, you must *volunteer* for the operation, sacrificing your own life to save the lives of the other five patients.

We can either take these ridiculously high demands as the final nail in the coffin for consequentialist theories, or we can modify them to allow an account of supererogation. One way to temper consequentialism is to redefine it as merely *promoting* the good, allowing the individual to choose among various good actions. But this still makes it difficult for consequentialism to esteem and praise supererogatory acts: they merely generate *more* good than other choices.

> David Heyd, *Supererogation*, Cambridge University Press, 1982, p. 74.
>
> Consequentialism can explain the value of supererogatory acts as acts that bring about better results than their obligatory alternatives, but falls short of accounting for the value of supererogatory acts as spontaneous and virtuous acts which, by being non-obligatory, express man's ideals, and as such deserve special praise. There is more in supererogation than just the maximization of happiness, and that cannot be explained in purely utilitarian terms.

In a way, consequentialism's appeal as a simple and straightforward moral theory is its downfall here – working only from a single definition of the good, it is unable to effectively delineate a class of actions to be called supererogatory.

Does deontology fare any better? If we look at a moderate form of deontology which places constraints on the good, while still taking the good into account as a normative factor, there may be hope that some optional good actions can come into the picture. Since deontology does not look solely to one factor, it does at least have a way of drawing different classes of actions. However, there are many different deontological theories, and I suspect that each will have its own characteristics which determine the role (or non-role) of supererogation.

For example, Immanuel Kant's rigorous theory (the one usually referred to in debate rounds), developed primarily in his *Groundwork of the Metaphysic of Morals*, tends to exclude supererogation because of its strict deontological nature.

> David Heyd, *Supererogation*, Cambridge University Press, 1982, p. 53.
>
> The moral act [according to Kant] is never optional. There is a necessity in moral actions, which for human beings (having inclinations besides reason) means a duty, an imperative. The moral act is therefore always performed in obedience to a binding command or law.

Kant defines permissible actions as "morally indifferent." He does not leave room for optional acts to be deemed good ones. Any act that would be considered a good one is already required. Heyd terms this strategy "reductionist," in that it reduces all kinds of good acts to being obligatory.

On the other hand, John Rawls explicitly acknowledges supererogation and gives it a place in *A Theory of Justice*.

> John Rawls, *A Theory of Justice*, Harvard University Press, 1971, p. 117.
>
> These are acts of benevolence and mercy, of heroism and self-sacrifice. Supererogatory acts are not required, though normally they would be were it not for the loss or risk involved for the agent himself. A person who does a supererogatory act does not invoke the exemption which the natural duties allow. For while we have a natural duty to bring about a great good, say, if we can do so relatively easily, we are released from this duty when the cost to ourselves is considerable.

For Rawls, his two principles of justice as fairness apply only to what he calls the basic structure of society.

> John Rawls, *A Theory of Justice*, Harvard University Press, 1971, p. 7.
>
> For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.

Basically, the principles of justice are applied to the laws and institutions of society, not to the daily actions of individuals. People act justly when they comply with just laws; it would be supererogatory for them to also apply the principles of justice to their personal everyday decisions.

We have just seen two contrasting examples of deontological theories, both of which come up frequently in LD. There would seem to be no definite pattern regarding supererogation and deontology, though some theories mesh better than others. However, if you decide to run a supererogation position on a resolution, you will want to avoid an obvious mistake – don't create an internal conflict in your case by running a value premise or criterion which does not allow for supererogation. Since debaters do not necessarily run values straight from the definitions of famous philosophers like Kant and Rawls, think about the way *you* define your value to account for supererogation, and how your opponent doesn't.

A Debater's Introduction to Metaethics

By Christian Tarsney

This essay provides a survey of the most important debates and positions in metaethics, divided into three general topic areas: (i) the function of moral language, (ii) the nature of moral properties, and (iii) the sources of moral knowledge. The goal is to familiarize debaters with the core ideas and terms from the field which are most directly debate-relevant. The last section discusses the structural role of metaethical arguments in LD rounds, in particular the interaction between metaethics and ordinary standards debate, and gives suggestions for running and responding to metaethical positions.

Introduction

The goal of this essay is twofold: first, to give a whistle-stop tour of the most important questions in metaethics, and the most popular answers to those questions, and second, to discuss the function of metaethical arguments in debate and give general strategic suggestions for running and answering these arguments effectively.

Metaethics as a widely recognized component of LD debate is quite new—as recently as three years ago, most debaters wouldn't have recognized the word. It's tempting to point out that metaethical *arguments* have appeared in debate rounds, although perhaps infrequently, for as long as debaters have been comparing ethical theories, but it would be a mistake to deny that the explicit emergence of metaethics has changed the complexion of national circuit debate quite substantially over the last few years.

Because of its relative novelty (I speculate optimistically), there is still considerable confusion among debaters and coaches about both the content and function of metaethics. The former can be taught—the difficulty, at the moment, is that many debaters are learning it second-, third-, or fourth-hand from anyone who's actually studied it (coaches remembering bits of what their lab leaders told them three years ago about intuitionism), with the result that substantial confusions exist about the content of particular views, and both debaters and coaches often don't know what they don't know. The latter is something which the LD community as a whole will have to work out by consensus, and in what follows I'll make some brief suggestions as to how that consensus should look.

So, what is metaethics? This is a question without a trivial answer, but the simplest way of thinking about it is this: *ethics* ("normative ethics," "ethical theory," "first-order ethics") tries to figure out general principles by which to determine what things have what ethical properties (for instance, what actions are right, wrong, permissible, obligatory; what events or states of affairs are morally good or bad; what people are virtuous or vicious). Each ethical theory

proposes a criterion for assigning these labels—for instance, a utilitarian might say: "A state of affairs counts as 'good' to the extent that it involves more happiness than unhappiness, an action is right to the extent that it brings about good states of affairs, and a person is virtuous to the extent that he or she regularly takes right actions."

Metaethics steps back from this project and asks what exactly we're doing when we devise ethical theories, and how we ought to go about doing it. A bit more concretely, metaethics asks three kinds of questions about the practice of making moral judgments and devising moral theories:

> [1] Linguistic questions: What do terms like "right," "wrong," "good," "bad," etc. mean? Can they be defined in terms of purely descriptive vocabulary (e.g. "pleasurable")? Is someone who expresses an ethical judgment asserting a fact (i.e., saying something which could be true or false, in virtue of how things really are in the world), or are they doing something else?

> [2] Metaphysical (or "ontological"[53]) questions: If moral judgments do seek to describe some feature of reality, what feature is it? Are there moral properties (like rightness) which simply exist over and above all the physical properties? Do the moral facts depend in some way on the physical facts (for instance, does the fact of an action's wrongness depend on its causing someone to suffer), and if so which physical facts are the relevant ones?

> [3] Epistemological questions: If moral judgments are the sorts of things which can be true or false, then how do we know which are which? Does merely having an intuition or feeling that something's wrong *justify the belief that it's wrong*? If not, what could justify that belief?

The next three sections will tackle these three question sets, in that order. It's worth giving a note of caution, however, that this organization of the subject matter, and all the further organization within the sections, is open to dispute and done differently by different people— I'm organizing things in the way that makes most sense to me, but neither it nor any other taxonomic schema is canonical. In particular, I'll point out that the ordering between language (the cognitivism/non-cognitivism divide) and metaphysics (realism/anti-realism) can and does go either way in standard presentations, and my ordering is motivated by pedagogical rather than philosophical considerations. Debaters are fond of saying things like "epistemology comes prior to ontology" with the sense that they're saying something clear and obvious, but in general issues of language, metaphysics and epistemology are too tightly entangled to admit of

---

[53] I put the word in scare quotes because of its constant abuse by obscurantist pseudo-philosophers and, consequently, the debaters who card them. For these purposes, thinking of "ontology" as merely the task of cataloguing the "furniture of the universe"—figuring out what things (objects, properties, facts, events…) there are and aren't. Metaphysics is the slightly broader task of trying to say something about the *nature* of these things and how they fit together. That's vague, of course, but at least it's vague forthrightly.

such simple "orders of operation," at least in advance of committing oneself to a particular, substantive view. (Hopefully why that's the case will become clearer as we proceed.)

Finally, along the same lines, it should be noted that the category distinction between "metaethics" and "normative ethics" is not cut and dried—any significant view in metaethics is likely to count in favor of some moral theories and against others, and conversely a really good argument for a particular moral theory may settle a lot of metaethical questions along the way. For our purposes, I'll discuss any view that has metaethical implications, but it would be wrong to assert something like "contractarianism is metaethics, not normative ethics" (or vice versa).

I'll delay most of what I have to say specifically about debate applications until we've covered the content of the metaethical views we'll be considering.

Moral Language

Debates about moral language center around one point of philosophical disagreement: are moral utterances truth-apt? In other words, are sentences which express either general moral attitudes ("Lying is wrong.") or particular judgments ("What she just did was wrong.") the sorts of things which can be true or false? Does someone who utters such a sentence intend to assert a fact, or are they doing something else?

The view that moral utterances are (in general) truth-apt is known as cognitivism. The view that they are (generally) not is known as non-cognitivism. I think it's fair to claim that most of us are intuitively cognitivists about our use of moral language—we take ourselves, or at least we take most people, to be aiming for truth when expressing moral judgments (such that we either succeed, and do state a truth, or fail and state a falsehood). But noncognitivists have offered increasingly sophisticated accounts of moral language which challenge this intuition. I'll say a few things about cognitivism first, then examine some of these proposals.

Cognitivism

There's not terribly much to say about cognitivism per se—by and large, it's simply an unstated assumption. Cognitivists believe that ordinary, well-formed moral utterances are either true or false—there might be exceptions, indeed perhaps quite large ones, for particular kinds of moral discourse which are found to be somehow incoherent, but all the cognitivist needs to claim is that at least some sentences which express what look like ordinary moral judgments ("Lying is wrong," "Agents ought to prevent suffering when they can do so at little cost to themselves.") are either true or false.

This is not necessarily to claim that any of these sentences are true—as we will see in a moment, some cognitivists think that all moral claims are false. (At least some moral claims must be false, on a cognitivist account, given that some pairs of claims contradict.) The cognitivist also need not claim that we know whether any particular moral claim is true—a

cognitivist believes that when we express moral judgments, we are making claims, but it's perfectly possible that the facts on which the truth of these claims depend is entirely inaccessible to us. (By analogy, we could write books speculating about the activities of hypothetical aliens in some distant solar system, making claims all of which are either true or false but without any ability to determine which are which.)

Defenses of cognitivism generally take the form of objections to particular non-cognitivist proposals, and we'll examine some of these arguments in the next section. No moral philosopher is just a cognitivist—rather, there are cognitivist and noncognitivist moral theories, and if a theory can provide a plausible account of what we're talking about when we make moral claims (e.g., an account of properties like wrongness which explains what it means to call an action "wrong"), then in so doing it has justified cognitivism almost in passing. The noncognitivist, then, is one who holds that there is no plausible account of moral discourse on which it involves the attribution of properties at all.

Non-Cognitivism

The non-cognitivist believes that moral utterances do something other than express truths and falsehoods. Historically, two candidates for that "something else" have tempted philosophers. *Emotivists* (or *expressivists*) think that moral utterances express the attitude of the speaker towards an action, person or state of affairs (or at least, that this is their most ordinary function). *Prescriptivists* think that moral utterances issue instructions or commands.

The simplest way to get the sense of these views is to think in terms of the underlying grammar they take moral utterances to possess. The cognitivist thinks that a sentence like "Lying is wrong." is just what it appears to be: a declarative sentence which predicates a property (wrongness) on a grammatical subject (lying). The non-cognitivist thinks that, despite its outer form, the sentence "Lying is wrong" is not really declarative at all. To the emotivist or expressivist, its underlying form is that of an interjection, something like (to give something of a parody) "Boo lying!" To the prescriptivist, the underlying form is that of an imperative, i.e. "Don't anyone tell lies!" No one thinks that ordinary interjections ("yay!", "ouch!", "wow!") or imperatives ("come here!", "go away!") are candidates for truth or falsehood, so to the extent that moral utterances are *really*, in some sense, of one of these forms, then neither are they.

The earliest noncognitivist account of morality (at least in recent philosophical history) is A.J. Ayer's emotivism. Ayer belonged to a group of philosophers known as logical positivists, best known for the view that the meaning of a sentence consists of its *verification conditions*, the set of potential observations which could confirm or disconfirm it. If a sentence is not open to observational confirmation or refutation, on this view, it simply fails to make a meaningful claim. The positivists, Ayer in particular, were persuaded for this reason that moral claims could be nothing more than outbursts of emotion.

This view is now widely regarded by philosophers as crude and untenable—in part, because the verification-conditions view of meaning has lost much of its popularity, but also in part because

Ayer's emotivism has trouble explaining many features of ordinary moral discourse. For instance, people sometimes appear to be in genuine moral disagreement, i.e. asserting contrary moral claims, which should be impossible if they aren't asserting anything at all. People also reason hypothetically, counterfactually and probabilistically about morality, and it's not easy to see how we could do any of those things with mere emotive reactions (compare "I'm not sure whether this is morally wrong" to "I'm not sure whether: *ugh*…"). Finally, moral claims figure in (apparently valid) deductive arguments, which seems to require that they express propositional content (this is known as the Frege-Geach objection).

Since Ayer, emotivists (and their close cousins, expressivists) have developed increasingly sophisticated ways of addressing these problems by adding nuance to Ayer's stark emotivist account. Charles Stevenson, Simon Blackburn and Allan Gibbard have all contributed views along these lines, which unfortunately we lack space to discuss in detail. Both Blackburn and Gibbard, however, edge in the direction of both cognitivism and realism in the course of trying to account for moral disagreement and moral reasoning (Blackburn, for instance, describes himself as a "quasi-realist").

Prescriptivism falls into the same historical tradition as emotivism and expressivism, as part of the attempt to improve on Ayerian emotivism. The best-known prescriptivist is R.M. Hare, who described his view as "Universal Prescriptivism"—in short, claiming that moral utterances express commands which apply to all agents in relevantly similar circumstances (hence, "universal"). Hare thought he could derive from this starting point a form of utilitarianism. However, like Ayer's emotivism, prescriptivism has generally been abandoned by moral philosophers since it faces most of the problems for emotivists mentioned above, and offers no particularly good solutions to them.

Moral Reality

Alongside the question of what it means to say something like "lying is wrong," there's the question of what facts or phenomena in the world these claims have to do with. One possible answer is "none at all," and people who take this view are known as moral anti-realists. On the other hand, there are a variety of moral realist views which offer competing accounts of the subject matter of morality.

Realism

Realists believe in moral properties—they believe that there really are such things as rightness and wrongness, goodness and badness, virtue and vice, moral value, moral worth, etc. Not all realists believe in all these things, and just about any particular realist view will take some of them to be primary and the rest merely derivative, if they can be made sense of at all (a Kantian, for instance, takes rightness and wrongness to be primary; a utilitarian takes moral value and disvalue). There's not more to say about realism in general, but there's a good deal to

be said about particular realist views, of which we'll explore three broad categories in this section.

Naturalism

Naturalists believe that moral facts are a species of "natural fact." What this means is not always completely obvious, but for our purposes let's say that natural facts are facts about the empirical (=physical?) world, of the sort dealt with by the sciences. It's also not always clear what's meant by the *identification* between a moral fact and a natural fact: at one extreme, we might think that moral terms are just alternate names for natural phenomena, so that for instance "bad" is just a different way of saying "painful" (this is the sort of naturalism that G.E. Moore seemed to be criticizing—see below). But most moral naturalists want to go a little farther than this and claim that the specifically *moral* facts are distinguished from other natural facts by some special sort of normative or action-guiding significance (though what this could be if not something over and above the natural often proves hard to say).

Naturalist views tend to go in one of two directions, corresponding to the two normative theories most closely associated with naturalism: utilitarianism and virtue ethics. Utilitarian moral naturalists, like Peter Railton, claim that the basic moral facts are facts about value, and that moral value facts are to be identified with facts about the preferences, interests or wellbeing of sentient creatures. Not all utilitarians are moral naturalists—those who aren't hold that it's a *further fact* about pleasurable experiences that they're morally good (i.e., saying that "it involved pleasure, and it was good" states two facts which are necessarily connected, rather than stating one and the same fact in two different ways). The naturalistic utilitarian, on the other hand, thinks that the natural facts by themselves are sufficient: once it's been said, for instance, that the Holocaust involved enormous human suffering, *nothing more needs to be said* to describe its moral properties.

Virtue-ethical naturalists like Philippa Foot and Michael Thompson have a different story, deriving ultimately from Aristotle (hence often referred to as Aristotelian naturalism). On their view, moral facts are facts about *function*: things in the world are divided into *natural kinds* (like "human being") that represent privileged groupings. Each natural kind has an associated function or activity which defines it, and these characteristic functions contain within them normative criteria for what count as good and bad *performances* by a member of that kind. These functional criteria in turn yield normative judgments about particular specimens of a natural kind: for instance, if the function of a lion is to hunt gazelles, a lion which does so well is a good lion, and one which does so badly is a bad lion. In this way, the natural world furnishes judgments of functional characteristics as either positive (virtues) or negative (vices).

Of course, the notion of "natural functions" is contentious, and even if it could be extended to humans, it's not clear why "making oneself a well-functioning human being" should take precedence over any of our other concerns—for instance, when it comes into conflict with pleasure or desire-fulfillment. In addition, there are general objections to any naturalistic account of morality which we'll explore in the next sub-section.

Non-Naturalism

Non-naturalist realists believe that moral properties are *sui generis*—"of their own kind," rather than a derivative or complex of other (naturalistic) properties. Non-naturalism is most famously associated with G.E. Moore, an English philosopher who wrote during the first half of the twentieth century. Moore articulated two famous (and famously obscure) objections to any naturalistic account of moral notions (in particular, "good") which he held to indicate that the fundamental terms of morality must represent irreducible conceptual primitives.

The first of these objections, known as the Open Question Argument, suggests that naturalists who propose reductive definitions of moral terms (in Moore's example, "good") can't possibly be right since if they were, the question of the truth of these equivalencies would not be (or seem to be) "open": if, for instance, "is good" really just *means* "is pleasurable," then a question like "I know that enjoying other people's misfortune is pleasurable, but is it a good thing to do?" would be as trivial as "I know that Sam's a bachelor, but is he unmarried?" On the contrary, however, the first question seems entirely substantive, and it seems as though someone could be a fully competent English speaker, as conversant as anyone with the meaning of the word "good," and still not know the answer to it. Thus, Moore argued, since analogous open questions exist for any attempted naturalistic reduction of moral concepts, the meaning of moral terms can't be fully naturalistic, or reducible to naturalistic terms.

Moore's second argument accuses the naturalist of committing what he terms the "Naturalistic Fallacy." This argument is notoriously muddled, hard to distinguish from the Open Question Argument, and rarely seen as compelling. It's worth noting, however, that neither in Moore's usage nor elsewhere is this "fallacy" a synonym for Hume's "is-ought" problem (the observation that there are no valid arguments from a set of "is" claims, i.e. claims which are purely descriptive, to any "ought" claim)—debaters sometimes use the terms interchangeably, and this ought to be avoided.

The basic objection to Moore's non-naturalism is that it makes morality deeply mysterious—it leaves little if anything to be said about the nature of moral properties, beyond their being *sui generis*, and in exchange in requires us to posit the existence of something strange and metaphysical. Non-naturalists also have a hard time explaining how we *know* anything about morality, given how far removed their moral reality is from the world of ordinary experience. Typically, non-naturalists have appealed to something like a faculty of moral intuition which simply gives us direct (if sometimes unreliable) access to moral truths. But this explanation seems only to deepen the mystery, and as we will see shortly, it has not been well-received by philosophers.

Constructivism

It does seem odd that "naturalism" and "non-naturalism" should fail to exhaust the field of moral realisms. But for whatever reason, each of these terms have acquired narrow enough meanings that there are broadly realist views which can be usefully distinguished from either. There are many ways of carving up the terrain, but making no attempt to be exhaustive, I'll take constructivism as a third broad category of realist moral theory.

Constructivists believe, in one way or another, that morality depends on norms and agreements within human societies. These norms and agreements might be explicit, implicit or merely hypothetical, depending on the form of constructivism in question. And the criteria which define the particular sort of agreements that give rise to morality will differ from theory to theory as well.

Two kinds of constructivism have recently become popular in debate: contractarianism and contractualism. Each of these is an enormous topic unto itself, so I'll try to indicate very briefly what each view holds, what they have in common, and where they diverge.

Contractarianism is the account of morality proposed by David Gauthier, and traceable in nascent form back to Thomas Hobbes. On Gauthier's view, morality is a set of self-regulatory rules which agents have self-interested reasons to adopt and bind themselves to. Gauthier's argument, in simplest terms, is that (a) we all do well by cooperating with others, but (b) we also all face incentives to defect from cooperative agreements for personal gain and (c) worry that others will defect from their agreements with us. Therefore, (d) we prefer to cooperate with people who are *disposed to abide by their agreements*, rather than with people who are constantly calculating their long-term interests in cooperating or defecting. Fortunately, (e) dispositions are detectable even when particular acts of defection are not—we have numerous ways of telling the honest dealers from the cheats and connivers, and to the extent that we can't, we make up for it by punishing the cheats all the more seriously when we catch them in the act. Since others have the same preferences and capacities as we do, therefore, (f) it is also in our own best interests to be sincerely disposed cooperators, even in the particular instances when we could gain by defecting. To accept morality is to resolve to abide your agreements, both explicit/particular and implicit/general, and no (directly) self-interested calculation of the advantages of agreement-keeping can provide the benefits that this commitment can—namely, making you a trustworthy cooperative partner with whom others will willingly enter into agreements.

The contractualist account of morality is quite a bit different. It traces back at least to Rawls, but has found enormous recent popularity through the work of T.M. Scanlon. Where Gauthier takes the pull of morality to be fundamentally self-interested, Rawls and Scanlon argue that the moral standpoint is essentially *impartial*. For Rawls, impartiality is represented by the Original Position and Veil of Ignorance (and, on the level of metaethics, by reflective equilibrium, which we'll discuss in a moment). For Scanlon, the impartial agent looks for rules or principles which "no one could reasonably reject as a basis for informed, unforced general agreement." (This

formulation expresses the core of Scanlon's theory, and many philosophers find it to be exactly as inscrutable and question-begging as it sounds.) While both Rawls and Scanlon take it as fundamental that individuals are concerned with their own interests, they suppose that we're also concerned with notions like fairness, and with the ability to justify our conduct to others, and that morality asks us to place these concerns (for their own sakes, not for even indirectly selfish/instrumental reasons) above the maximal satisfaction of our own interests. In this respect, they are in basic disagreement with Gauthier.

There are a myriad other forms of constructivism besides contractarianism and contractualism—for instance, Korsgaard's view is generally seen as a constructivist rendering of Kant. But what all constructivist views have in common is the claim that moral facts are closely linked to facts about norms, agreements, commitments or decisions by or among agents. Constructivist moralities might be "mind-independent" in the weak sense that they derive only from *necessary* facts about these agents (e.g. facts about the nature of agency), but they do depend at least on these, where other accounts of morality do not.

Anti-Realism

In its strongest manifestation, anti-realism is the view that there are no moral facts or moral properties—that nothing is morally right, wrong, good or bad. A little more weakly, anti-realists believe that there are no *mind-independent* moral facts—that if anything is, say, morally wrong, this is only to say that someone *regards it as* wrong or *projects* the property of wrongness onto it. Just about all the views which, in debate, are lumped under the umbrella of "moral skepticism" are anti-realist, but not necessarily vice versa: non-cognitivists, in particular, are (almost necessarily) anti-realists, but for the most part would not characterize themselves as "skeptical" of morality. Non-cognitivists are anti-realists by default, since they don't think that moral terms like "right" and "wrong" are even *trying* to refer to properties in the world.

On the other hand, anti-realism in combination with cognitivism yields (as always, subject to debatable exceptions) what's sometimes called an "error theory" of moral discourse—i.e., yield the conclusion that the entire practice of making moral judgments is in error, and that all sentences expressing such judgments are false. The term "error theory" entered into philosophical parlance through the work of J.L. Mackie, but it doesn't refer in any very particular way to his position or arguments (the well-known "argument from disagreement" and "argument from queerness"). Rather, an error theory is just any skeptical view which denies the existence of a moral reality, coupled with a cognitivist interpretation of moral discourse. Some debaters seem to have thought that by calling skepticism "error theory" (and carding skeptics like Mackie and Richard Joyce who use that term), they can avoid the stigma associated with running "skep." But it should be obvious that this is no more than a change of label. The one genuine advantage to characterizing a skeptical position as error-theoretic is that it specifies a particular kind of skeptical conclusion—namely, that moral claims are false, rather than (e.g.) meaningless, or unknowable, which is certainly a more useful conclusion if you're negating. But of course it's the content of the skeptical argument which determines the implication, not its label.

Moral skepticism/anti-realism is an enormous topic—in a sense, nearly as large as moral theory itself, since historically the task of answering the moral skeptic has been a central concern of almost all non-skeptical moral and metaethical theories. And from a debate standpoint, moral skepticism/error theory is its own topic, so I won't say more about it here. The important point, for our purposes, is that skepticism has a place in our picture: in metaethical terms, the paradigmatic skeptic is a cognitivist anti-realist.

Moral Knowledge

The final major question of metaethics is this: If moral knowledge is possible, how is it possible and what does it require? Standardly, epistemologists have understood "knowledge" to mean justified true belief (ignoring some irrelevant complications), and epistemology as a discipline tends to concern itself most centrally with the notion of "justification." (Whether an agent has a given belief is largely a question for philosophy of mind and for psychology; whether that belief is true is a question for any field of inquiry the belief concerns, which in the case of moral beliefs means normative ethics and/or the metaphysical portion of metaethics. Thus, while epistemology is generally branded the "study of knowledge," it is more than anything else specifically the study of justification.) That being so, we can reframe the central question of moral epistemology as asking what, if anything, can justify moral beliefs, or give sufficient epistemic warrant for taking a moral utterance to be true.

There are quite a few ways in which this question could turn out to be (more or less) uninteresting. If all moral beliefs are unjustified, then the answer is trivial. If what we call "moral beliefs" are in fact not belief states at all but rather attitudes, reactions, plans or prescriptions, then the question simply doesn't make sense. And if moral facts turn out to be a species of empirical fact—e.g., derivatives of facts about the wellbeing of sentient creates, or the norms of human societies—then we learn about them by ordinary empirical methods, and there is no unique problem of moral epistemology.

That said, though, there are other moral theories for which epistemological problems are front and center, and where a special account of moral knowledge/justification is called for. We'll look at three of these accounts.

Intuitionism

Intuitionism is exactly what you'd expect: the view that our moral intuitions are reliable sources of moral knowledge. In general, intuitionists think that we possess autonomous faculties of moral judgment, i.e. capacities for discerning properties like goodness, badness, rightness or wrongness which are entirely independent of our other means of acquiring knowledge (the senses, mathematical reasoning, etc.). The appeal of this view is that it explains the vivid and compelling nature of certain moral intuitions—for instance, one's sense of wrongness when studying the Holocaust. Most people, even if they have no answers to the deep questions of

moral theory, are reluctant to abandon the thought that they're onto something with their strongly felt moral judgments, and an easy way to sustain this view is to suggest that we really have something like a "conscience" that feeds us reliable moral information.

If you read that last paragraph with suspicion, though, you're in good company. While intuitionism was defended by non-naturalists like Moore and W.D. Ross in the early- to mid-20th century, it's almost entirely defunct today, for a number of reasons. An autonomous (and reliable/truth-tracking) faculty of moral judgment would be something quite mysterious and extraordinary, and as such demands extraordinary evidence, which seems to be lacking. The compelling-ness of our moral intuitions is now much better explained (many philosophers think) by evolutionary psychology. And intuitionists have struggled to give a plausible answer to the problem of disagreement between people's deeply felt moral intuitions—once it's admitted that these intuitions can be wrong (as must be the case, if they disagree), then the case for intuitionism in the first place seems to evaporate (since there must be some other possible explanation for powerful moral intuitions besides their truth, in order to explain our having them when they're wrong).

In a debate context, there are other strikes against intuitionism. In particular, even winning intuitionism as the correct moral epistemology might not get you very far in a round since your opponent can always just deny whatever intuition your normative argument depends on—the only recourse, if two debaters are just asserting conflicting moral intuitions, is the intuition of the judge, and except when the intuition is enormously clear-cut, most judges won't want to go that route. The alternative is to present hard data on the intuitions of people in general (more and more of which are being collected by the new wave of "experimental philosophers"), but the challenge is to find data on intuitions which yield substantive conclusions about any topic of moral controversy. The sorts of issues on which there are firm and widely shared moral intuitions tend not to turn into debate topics, and a representative aggregation of people's intuitions is certainly not going to spit out anything that looks like a comprehensive moral theory (Kantian deontology, utilitarianism…) that can be applied to moral problems top-down.

Rationalism

Moral rationalism is the epistemic view with which debaters are probably most familiar—although it usually gets referred to in debate, somewhat misleadingly, as "practical rationality." Rationalism is general is the view that certain truths are knowable a priori (i.e., independent of experience), and that much if not all of our knowledge is derived deductively from these a priori starting points. The best-know moral exponent of rationalism was Immanuel Kant, and contemporary Kantians are by and large engaged in the same rationalist project, even when (like, e.g., Korsgaard) they hew to a weaker line than Kant with respect to the metaphysics of moral oughts. Gibbard's view, which has Kantian elements but combines them with an expressivist account of moral language, is also essentially rationalist, and Hare, whose normative conclusions are utterly un-Kantian, makes recognizably rationalist arguments as well.

Rationalists in general, I would suggest, see the requirements of morality as embedded in, implied by, or constitutive of being a certain kind of agent. Typically, the thought is that being an agent at all involves thinking in a certain way, and asking questions like "What should I do?" An answer to these questions must have a particular form. For Kant, it must involve willing a maxim; for Korsgaard, ascribing value; for Gewirth, setting a purpose; for Gibbard, making a plan. The requirements of morality, then, are requirements of being an agent, or a practical reasoner. As Kant would have it, for instance, making choices means doing things for reasons, doing things for reasons involves willing maxims (which endorse those reasons as reasons), and willing a maxim means willing a universal rule for all agents, which must not be in any way inconsistent when stated in its universal form.

The basic downside of moral rationalism is that it's hard to actually make the arguments: to spell out the premises about the nature of practical reasoning, explain why human beings are committed to them just by virtue of doing (or wanting) things, and then derive a substantive morality from them by valid deductions. If such an argument could be made, then no generic objection to rationalism would count for very much against it, but conversely if the argument can't be made, we'd better have some epistemological alternative to rationalism if we want to avoid moral skepticism.

Reflective equilibrium

Perhaps the most popular going account of moral epistemology derives from Rawls' notion of "reflective equilibrium." Reflective equilibrium is, for Rawls, a way of resolving (or at least learning to live with) moral disagreement by developing a common morality through deliberation which takes account of the moral values and intuitions of all relevant parties (at minimum by locating points of "overlapping consensus" between the views of all or most individuals, but ideally also by bringing about deliberative revisions of individual beliefs and attitudes in the direction of achieving a broader moral consensus).

In its contractualist application, reflective equilibrium has more to do with the metaphysics than the epistemology of moral judgments, since it represents a way of creating a morality (and a tool for imagining what an ideal public morality might look like), rather than a means of discovering pre-existing moral facts. But others have given the idea a more epistemic flavor, suggesting that even if we don't have any special faculties of moral judgment, our moral intuitions do still carry some epistemic weight, and the best moral theory will be the one which takes account of as many of them as possible—rejecting an intuition here and there if an otherwise appealing theory counts against it, but not looking for a theory that will simply tell us what to believe a priori.

Naturalistic/constructivist moral epistemologies

As I've already suggested, metaphysical accounts of moral facts which reduce them to mind-independent facts about the empirical world, or to mind-dependent facts about human norms,

dispositions and agreements give the most straightforward answer to epistemological worries: just go look at the world. Sometimes, this is not at all easy: for instance, debaters love to make arguments about the difficulty of figuring out which actions maximize net long-term utility. But at least for the moral naturalist, these problems don't really constitute objections to the underlying moral theory. Being a good utilitarian might be hard or even impossible, but as long as the value facts are out there (pleasure good, pain bad, or whatever), utilitarianism is still true. Naturalist and constructivist views tend to have more epistemological questions to answer at the metaethical level: e.g., how do we know that these natural facts, say concerning pleasure and pain, are the moral ones, rather than those? But this is a problem which will rarely get addressed in any detail during a debate round.

Metaethics in Debate

The Role of Metaethical Arguments

So, how should any of the above arguments be used in a debate round? In general, the answer is that metaethical claims act as *a filter on standards justifications*, and to a lesser extent on the content of standards. In other words, if a standard ("protecting life," "minimizing suffering," "treating persons as ends"…) embodies either a normative ethical theory (a version, ideally somewhat specified, of utilitarianism, deontology, virtue ethics, or something constructivist) or a contextualization of such a theory (e.g. impact-justified consequentialist standards, a la "preventing terrorism"), metaethical considerations determine what sorts of reasons might be given for adopting that theory, perhaps so restrictively as in effect to rule the theory out wholesale.

This is most obvious with respect to moral epistemologies. If intuitionists are right, then moral theories must be justified by appeal to something that looks plausibly like a case of (foundational, *a priori*?) moral intuition—moral judgments which are widely shared, vividly and compellingly intuitive, and consistent with other such judgments. If moral rationalists are right, then moral theories must be justified derivatively from facts about the nature of practical rationality—i.e., must be entailed simply by the choice to deliberate, or by asking a question like "What should I do?" If naturalists or constructivists or right, then one or another sort of empirical evidence must be given in favor of the standard (although this evidence might be very general, involving appeal to ordinary commonsensical observation rather than anything meticulously scientific).

Claims about the meaning of moral terms or the nature of moral properties also constrain justification, though less straightforwardly. Although some forms of non-cognitivism (most notably Ayer's) are essentially skeptical, more nuanced noncognitivist views which allow for moral disagreement provide fairly complex accounts of what considerations do and don't count in favor of a moral theory. Robust moral realism (e.g. non-naturalism, and most forms of naturalism) rules out pragmatic justifications for moral theories (e.g. arguments that the theory

is useful as a guide to action, or that its adoption would serve social interests). And more particular metaethical arguments will each give rise to their own unique interactions.

In addition, if you're defending something like a comprehensive metaethical view and giving reasons why your normative theory does well in terms of that view, it's reasonable to claim that your opponent has some burden of proof on the metaethics debate, to show that her normative theory does at least as well (of course, she may be able to do that by leveraging pre-existing standards justifications). If, for instance, you're defending Harean prescriptivism and your opponent is defending some form of virtue ethics (admittedly, this doesn't happen all that often), you may not be able to say anything very detailed about how your arguments proactively exclude hers, but she may have an even tougher time generating the links into prescriptivism (i.e., explaining her warrants for virtue ethics in prescriptivist terms).

The practice to avoid, though, when you're debating metaethics, is to just treat it like a silver bullet on the standards debate and expect the mere fact of winning a particular metaethical claim to be game-over of the standards debate regardless of your opponent's arguments. This attitude is exemplified by debaters saying things like "metaethics precludes normative ethics" or "prefer my argument since I'm giving you a metaethical warrant," and expecting this to do the work of dismissing whatever work their opponent has done on the standards debate without the benefit of the "metaethics" label.

There are two reasons this sort of approach is wrong. The first is that, as I've stressed already, the lines between metaethics and normative ethics/ethical theory are blurry at best. We've seen just a couple instances of this blurriness, but here's one reason it arises in general: It's impossible to spell out a normative view in any details without making some metaethical commitments, and indeed debaters make such commitments constantly with even the most banal standards warrants (think of "the purpose of morality is to guide action…", or "morality must value human welfare since humans are the source of moral rules/moral rules are meaningless if moral agents have no reason to follow them."). Conversely, then, if you can make a good argument for a normative theory that carries metaethical commitments, you've also made a good argument for accepting those commitments. And to accomplish this, the commitments don't need to each be argued for individually. For instance, if I find something that looks like a good candidate for what we mean by "moral value," that seems to serve all the functions we would expect of it, then that in itself is an argument for realism, probably against non-cognitivism, and (depending on what my candidate is) perhaps also for naturalism, non-naturalism, or constructivism). If I make a compelling deductive argument from self-evident facts about practical reasoning to a complete theory of morality, the compelling-ness of that argument is good evidence in favor of rationalism. Arguments which come at the metaethical disagreements directly do not necessarily take precedence over those that aim at specific normative conclusions.

Second, even if "metaethics" as a discipline was just lexically prior to "normative ethics," that says nothing about what's happening in a particular debate round. Just the fact that you're saying something metaethical is no guarantee that you're *saying something which refutes or*

excludes any claim your opponent has made. The missing norm, I think, that can help us handle things like metaethics, skepticism and even K debates better is that the debater making the preclusion claim has to justify it by specific argument comparison—showing, for instance, something very particular which an opponent's argument takes for granted, and your argument refutes.

The point, then, is that you should focus as much as possible on specific, on-point, substantive interactions between metaethical arguments and the rest of the flow, whether you're running metaethical arguments or responding to them, and you should call debaters out on claiming that "metaethics comes first" without doing that sort of legwork on the flow. It's tough to say much more in general terms about how to debate metaethics, because the argument interactions themselves are quite specific, and aren't amenable to general strategies that can be executed by rote. Metaethics debates in front of good judges will reward debaters who are smart, well-read, and creative argument-generators.

Conclusion: Should we like metaethics?

The emergence of explicitly metaethical debates has met with a mixed reaction from the LD community. Behind the complaints about metaethics, there are at least two legitimate concerns, one in-round and one out-of-round. The in-round concern is that metaethics debates will just further stress the limits of an LD time structure which already seems often inadequate for sorting out complex, multi-level debates. The number and length of LD speeches frequently seem to stand in the way of even one level of the flow getting thoroughly debated out, and with metaethics added to the mix, it may increase the likelihood of rounds in which either whole levels of the flow are simply abandoned, or the round comes down to non-interacting offensive extensions on distinct levels and gets resolved by whatever defensive arguments or spikes end up controlling the level at which the decision gets made. Trying to resolve, for instance, a debate between two competing metaethical views, then the question of which standard is better justified in terms of each metaethic, and then who has better offense to each standard is a pretty tall order for an NR, let alone a 1AR. Toss a theory debate into the mix, and the chance of any serious debate on substance declines precipitously.

This is a real worry, but to the extent that it's a concern about metaethics, it's also a concern about theory, "kritiks," and every other argument that tries to add incommensurable levels to the flow. And by comparison to these argument categories, metaethics has the advantage of not yielding offensive implications (except in the special case of skepticism). In principle, metaethics just provides a set of more sophisticated arguments to make on standards debates, and when an argument that's "metaethical" happens to preclude one that isn't, that preclusion is earned by its substance, not simply a matter of artificial layering. Of course, this is not the reality as long as debaters continue to adopt the silver-bullet approach to comparing metaethical and non-metaethical arguments, but hopefully this can be solved if judges hold debaters to higher standards of argument comparison.

The out-of-round concern about metaethics is that adding further esoterica to the canon of knowledge debaters need in order to compete at the highest level (and coaches, to coach at the highest level) raises one more barrier to entry into national-circuit LD. This too is a legitimate worry: we want debate to be rigorous and intellectually demanding, but this inevitably trades off with participation, and we have to think carefully about what balance we want to strike between these competing considerations. Here too, though, I think metaethics compares favorably to things like theory and K debate, in terms of the ratio of educational value received to accessibility lost. Metaethics can't be learned on the fly in a couple of hours at camp—in my experience, it takes a significant amount of fairly careful thinking to even get a solid feel for what the questions are—but it's not overwhelmingly difficult either, and most of the primary literature (especially from people like Scanlon, Railton, Blackburn and Gibbard) is quite clearly written. Of course, there's an element of subjectivity here, but I don't think we should shy away from metaethics because it's too hard for high school students to learn.

Apart from these two worries, it seems like some people in debate make the mistake of dismissing metaethics itself as mere vacuity. To be fair, almost any moral philosopher will think that some of the major debates in metaethics are hopelessly unclear, simply miss the point, etc.—part of the disagreement in metaethics is over what questions it makes sense to ask about morality, and what questions prove to be meaningless or yield trivial and unhelpful answers. But the project of metaethics as a whole is not something we can find a way around, short of simple moral skepticism (and even that only if we can dismiss everyone else's positive arguments for non-skeptical conclusions). If we want to make certain attributions of rightness, wrongness, etc., and reject others, then we have to explain what we're doing—what we mean by these attributions, what underlying facts (if any) our judgments correspond to, and how we justify accepting the particular judgments we do. None of these questions have obvious answers, and normative views which try to avoid them do so at the expense of deep unclarity. I won't try to sell the entirety of metaethics point by point (especially since I also think that some popular metaethical debates are misguided), but I'd challenge anyone who thinks metaethics is somehow bunk to answer the above questions without making any claims that are both reasonably contestable and overtly metaethical. Metaethics poses difficulties for debate, but those difficulties won't be solved by anyone's "metaethics dumb" block.

In any case, it seems unlikely to me that we could remove metaethics from debate if we wanted to (even assuming we knew what that could mean, beyond just proscribing the word). And in my mind, the increasing awareness of metaethical questions in debate is something to be happy about, all things considered. For a long time, one of the distinctive advantages of LD was supposed to be that it gave debaters a chance to learn and engage with philosophy, but in fact the vast majority of LDers knew almost nothing about any philosophy done in the last fifty years, and had only boilerplate understandings of a small and somewhat arbitrary canon of historical figures before that time. The fact that debaters are now learning to think about philosophical questions like contemporary philosophers do, and occasionally putting that ability to use in quite sophisticated and intelligent use in rounds, is pretty awesome and something I wouldn't have predicted four or five years ago. While metaethics debates to date have often been ugly and/or one-sided (if that), it's reasonable to expect that they'll improve as we figure

out how to run, answer and teach the arguments better. If you can push the envelope in that regard, you'll win a lot of rounds, and I've included some suggestions below to help you move in that direction.

Getting Better at Metaethics Debate
Reading and Drill recommendations

The most basic prerequisite to winning metaethics debates is knowing what you're talking about, and the best way to get there is to (a) read and (b) talk to people who know what they're talking about. In terms of reading, I won't give you a long reading list of primary sources, because when you're starting to learn metaethics as a debater the best resource by far is the Stanford Encyclopedia of Philosophy, which has very thorough articles on just about every view we've discussed, written by people who are not just expert in but usually also significant contributors to the relevant fields. From the standpoint of learning metaethics, you shouldn't pick up a primary source until you've read the relevant SEP piece—it will pack more useful information into fewer words than any journal article, and be written for non-specialists.

The Internet Encyclopedia of Philosophy is also a useful introductory resource, as is the journal *Philosophy Compass*, which publishes survey articles on somewhat narrower topics than you'll typically find in the SEP or IEP. When you need a quick-and-easy reference source, Wikipedia is also fine—in my experience, its philosophy entries are nearly all reasonably accurate. Finally, when you're ready to start reading primary sources, I'll just recommend a reader titled *Moral Discourse and Practice: Some Philosophical Approaches*, edited by Stephen Darwall, Allan Gibbard and Peter Railton. Not everything in it will be useful to debaters, but it's as good as anything I'm aware of.

While you're reading, you should of course cut cards, but I would strongly suggest that you not fall into the habit of thinking you need card files to debate metaethics (or normative ethics). By and large, you'll do much better writing uncarded blocks yourself—in part because it will do much more for your understanding of the arguments than just cutting and tagging someone else's presentation of it. Cards are a nice crutch when you don't feel confident enough in your understanding of the arguments to make them in your own words, and they're also useful in front of judges who automatically lend carded arguments more weight than uncarded ones (if you have a sense of who those judges are). But in general, you can make the argument more quickly and clearly (for debate purposes) by writing it in your own words, and you'll be better at explaining and interacting it. So, write arguments early and often.

Beyond reading and writing, you want to spend some timing drilling the actual debating, i.e. making metaethical arguments extemporaneously. The drill I'll

---

suggest for this purpose involves mixing and matching metaethical frameworks with normative frameworks. Take a typically normative framework (from one of your cases, or someone else's) and pair it (randomly, if possible) with either a written-out metaethical framework, or if you don't have a lot of those available, just with a metaethical view (the more specific the better). Give yourself a set amount of prep time to develop arguments that the metaethic excludes the normative framework, and deliver those arguments. Then give yourself the same length of time, or a little less, to develop arguments linking the normative framework into the metaethic, and deliver those arguments.

In each case, you should focus as much as you can on the *warrants* for the normative framework, and whether or not they're compatible with the metaethics; but when you're generating links, you might also in effect be creating new standards justifications that are compatible with the metaethic—whatever one thinks of that theoretically (as far as I'm concerned, it's functionally unavoidable, but there's room for disagreement), generating these links is a good way to get better. As with any drill, you should change things up as you go—start by giving yourself a lot of prep (say, five minutes per side) and slowly cut down on that. And it would never hurt to try once or twice writing the arguments out after you've delivered them. If you can run this drill with a teammate or a friend, so much the better.

Of course, if you want to get really good at debating metaethics, the best thing to do is write metaethical positions and debate them in actual rounds. Experiment with different ways of structuring your standards arguments (e.g. articulating the metaethic as a meta-standard, versus working the metaethical arguments into an ordinary set of standards justifications) and pay attention to feedback from judges. Good luck, and have fun!

Part II: Political Theory

Social Contract Theory

By Marshall Thompson

The Social Contract is a philosophical notion born out of enlightenment philosophy and so steeps modern political philosophy and assumption in American government that it is an indispensable component of philosophy to understand as an LD debater. This essay will attempt to articulate and explain the major traditions in Social Contract theory, following their historical developments, moving from Hobbes', to Locke's, to Rousseau's social contract theory. Within each section there will be a general overview to the original theory, modern articulations of the theory, and differing applications to debate.

"And so when men have both done and suffered injustice and have had experience of both, not being able to avoid the one and obtain the other, they think that they had better agree among themselves to have neither; hence there arise laws and mutual covenants; and that which is ordained by law is termed by them lawful and just. This they affirm to be the origin and nature of justice; --it is a mean or compromise, between the best of all, which is to do injustice and not be punished, and the worst of all, which is to suffer injustice without the power of retaliation; and justice, being at a middle point between the two, is tolerated not as a good, but as the lesser evil, and honoured by reason of the inability of men to do injustice." — Glaucon, in Plato's Republic

Background on the Social Contract

The notion of the social contract has been around and discussed since almost the foundations of philosophy. Socrates is depicted as postulating a theory similar to modern notions of the social contract in the dialogue Crito by Plato. In the dialogue, Socrates' argues that he has a moral obligation to follow the law even to the point of his death because of all that he has received from the state. A conception of justice as derived from a form of mutually beneficial contract is also proposed by the character Glaucon in Plato's Republic, although here the theory is ultimately dismissed.

Additionally the social contract plays an important and pivotal role within modern understandings of government. From the declaration of independence, to John Rawls' work Justice as Fairness, the notion of a mutually agreed covenant is a deeply influential idea. Because it is so informative to political philosophy and our understanding of the role of governments, a firm grasp of the social contract is crucial to success on topics that deal with relations between governments and individuals.

Hobbes' Social Contract Theory

Thomas Hobbes was the original social contract theorist. His work is primarily a reaction against the English Civil War (during which he lived), and as a rebellion against the traditional religious notions previously used to justify government such as the divine right of Kings. Hobbes was a philosophical materialist and thus denied that it is coherent to appeal to the church to justify the state. Hobbes noted how these sorts of religious justifications for the state allowed for the horrors of the English Civil War, as well as other civil conflicts, and believed that a proper theory of the state needed to be reared to prevent this sort of rebellion in future.

Overview to Hobbes' Social contract

The first thing that must be understood about Hobbesian philosophy is the Hobbesian conception of Reason. Unlike many concepts of reason (in which reason is employed to identify good, and critically reflect on our desires), reason for Hobbes is merely a tool. This idea can be illustrated with this example: You walk into your house and you smell brownies baking. According to Hobbes, the role that your reason will then play is not to critically reflect and say are brownies actually good. Instead it will say "How can I go and get brownies?" Now you may object and say, "No, reason tells me I should not eat the brownies because I want to be healthy." But, that simply pushes the role of reason back to a question of how can I get into shape? How can I live longer? How can I feel better? For Hobbes reason can't ask the question, "Is it good to get into shape?", or if it can it's only saying it's good to fulfill some other desire. Reason for Hobbes is merely a tool used to achieve our desires.

This conception of reason represents a major break from the previous philosophical notions. Within the dominant Aristotelian tradition which had a hegemonic status in ancient and medieval philosophy, nature has certain ends within its final causes and the role of reason is to perceive and pursue their natural ends.

Now, the place that a Hobbesian social contract begins is with a reflection on the state of nature (found in chapter 8 of Hobbes' *Leviathan*). Hobbes contends that "In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short."[54]

Hobbes defends this concept with a simple argument. Hobbes first notes that there is a certain fundamental equality between all people, not necessarily in ability or competency but simply by the fact that anyone can be killed by another. "For as to the strength of body, the weakest has

---

[54] Hobbes, Thomas. "XIII." *Leviathan or The Matter, Forme and Power of a Common Wealth Ecclesiasticall and Civil*. London, 1651. Print.

strength enough to kill the strongest, either by secret machination or by confederacy with others that are in the same danger with himself,"[55] and according to Hobbes this equality has the implication that if any two people ever desire the same thing they will become enemies. He argues, "From this equality of ability ariseth equality of hope in the attaining of our ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their end (which is principally their own conservation, and sometimes their delectation only) endeavor to destroy or subdue one another."[56]

This leads to the first cause of quarrel that exists in the state of nature, namely competition generated by a desire for gain. However Hobbes goes on to argue that even when there is no competition or desire for gain nevertheless there will be cause of quarrel. This exists because other humans are in some sense a mystery to us. We cannot know what other people desire, however we know that we possess things that are valuable to us and thus we have good reason to think others will want them. For example, if I stored up food for the winter, I can assume that you might want it, and if it is true I am in danger from you, the only way to be safe is to preemptively kill you. But the uncertainty becomes even more problematic, because even if I am certain that you don't want my food, you can't know that for certain, and thus you know that I might be planning a preemptive attack and thus you will want to preempt my preemptive attack. This uncertainty thus results, according to Hobbes, in a constant state of uncertainty and need for preemptive attack.

Lastly, Hobbes argues that humans have a natural desire for glory so that even if we have no rational reason to attack people we will nevertheless do it simply to demonstrate our ability. He articulates it like this: "For every man looketh that his companion should value him at the same rate he sets upon himself, and upon all signs of contempt or undervaluing naturally endeavours, as far as he dares (which amongst them that have no common power to keep them in quiet is far enough to make them destroy each other), to extort a greater value from his contemners, by damage; and from others, by the example."[57]

Thus according to Hobbes there are three fundamental and inescapable causes of quarrel in the state of nature, "First, competition; secondly, diffidence; thirdly, glory"[58]. Hobbes concludes that this perpetual cause of Quarrel results in people existing while in the state of nature in a perpetual state of war.

Now given Hobbes conception of reason as something that gets us what we want, and an understanding of our natural state as a state of war, Hobbes moves on to explain how we want things inconsistent with the state of nature, namely survival.

---

[55] Ibid
[56] Ibid
[57] Ibid
[58] Ibid

Up to this point in history, the ethical traditions in philosophy were dominated by Aristotelian and Thomist notions of natural form and function. In these traditions things have a natural propensity and ethics consists in fulfilling those propensies. However, Hobbes denies the Aristotelian notion of a final cause in nature and instead postulates a very materialistic understanding of the universe. There are no final causes, but instead objects operate according to fixed laws, very like the materialist worldviews of today. In denying the Aristotelian assumption Hobbes then postulates that the right of nature, rather than being some status derived from God or human dignity is instead the mere fact that each person has no possible reason to restrict their action in trying to protect their own life. Hobbes contends that "THE right of nature…is the liberty each man hath to use his own power as he will himself for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgment and reason, he shall conceive to be the aptest means thereunto."[59]

Hobbes is thought to ultimately base this natural right in an assumed paradigm of psychological egoism, in which people always behave, when reflecting on their actions, on principles that will increase their own self-interest.

Given the right of nature as the fundamental motive of human action, when one uses reason one derives the general law that "a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same, and to omit that by which he thinketh it may be best preserved."[60] This is how Hobbes goes about deriving an obligation; there is a natural law on mankind to take those actions that are necessary to one's wellbeing.

Hobbes thus concludes that human beings have an obligation to attempt to escape the state of nature because it is incompatible with one's preservation, which people are ethically bound to pursue.

The way that humans must escape the state of nature is to give up to each other the rights that they have over one another. Namely, I give up my right to kill others if they give up their right to kill me. In this way, Hobbes considers contracts to function as the core of ethics. However, one runs into the problem that there is no guarantee that other people will follow through on their half of the agreement. Thus according to Hobbes "Words alone, if they be of the time to come, and contain a bare promise, are an insufficient sign of a free gift and therefore not obligatory."[61] This is because "For he that performeth first has no assurance the other will perform after, because the bonds of words are too weak to bridle men's ambition, avarice, anger, and other passions, without the fear of some coercive power."[62] For Hobbes there is a need to establish some civil authority with coercive power over the participants in the contract.

---

[59] Ibid Chapter XIV
[60] Ibid
[61] ibid
[62] ibid

Hobbes thus determines the need for a leviathan to be set over people making contracts in order to guarantee that you get any benefit from the other person's compliance.

Modern Hobbesians

While no modern day thinkers really defend the need of an absolute leviathan, the general Hobbesian approach to reason and ethics is still defended by David Gauthier in his book, Morals by Agreement. The general argument is similar that ethics must begin in a metaphysically simple way, starting with merely the assumption that people are self-interested rational agents and move from there to the development of restrictions on actions. David Gauthier attempts this in a broadly Hobbesian way.

Applications to Debate

There are any number of ways to apply Hobbesian theories to debate. Here are some common ones with which you should be familiar. The first application is as a simple social contract argument, to establish how it is that the government is justified in taking what actions it does. Especially given the rather modest metaphysical assumptions that Hobbes begins with, it is often the easiest way to justify the social contract.

The second common use of the Hobbesian line of argumentation is to argue that in the absence of a government there are no established moral rules. This can be used to argue that in the interaction between governments states can do whatever they want (Note this application of Hobbesian thought is powerfully criticized by Charles Beitz in his book *Political Theory and International Relations*).

A third application can be used to establish a right to self-defense. In instances in which the state is unable to step in to protect individuals, it seems easily justified that under a Hobbesian position people can take actions for themselves.

A fourth application lies in Hobbes' criticisms of the death penalty. For Hobbes there is only one thing that you are not bound to obey in state decrees. You are not required to kill yourself or sacrifice your life to the state, because once you are dead you can get no benefit from your compliance. Therefore, it is easily argued that actions like the death penalty or conscription cannot be justified within the vaguely Hobbesian model.[63]

Locke's Social Contract Theory

John Locke is an incredibly influential philosopher with works ranging from his epistemological theories to his concept of government and punishment. His work has been incredibly influential

---

[63] Brettschneider, Corey. "The Rights of the Guilty: Punishment and Political Legitimacy." *Political Theory* 35.2 (2007): 175-99. Print.

in as varied ways as the development of charters like the <u>Bill of Rights</u> to helping justify the American Revolution.

Overview to Locke's social contract

John Locke differs from Hobbes in subtle but significant ways. The first thing to understand is that for Locke there exists a far more extensive natural law than implied in Hobbesian philosophy. Locke believes that all humans innately recognize the inherent rights of life, liberty and property. According to Locke, humans even in the state of nature will generally recognize these rights and thus the state of nature will not be completely horrible.

That said, Locke still holds that the state of nature can easily devolve into a state of war. The reason for this is that humans have a right to punishment while in the state of nature. If you kill my child or my neighbor then I can kill you for violating the law of nature. You have placed yourself outside of the common law of nature and thus can no longer claim that for yourself. The problem that Locke notes is that likely the person you punish will themselves be a family member or neighbor of someone (you can see where the chain goes), ultimately resulting in a state of war.

Thus the core issue within the Lockean tradition is that we don't give up everything to the government nor do we give it up unconditionally. Instead we give up the right to punish people (i.e. to be vigilantes) and certain minor rights to liberty and property (laws and taxes) in exchange for very specific obligations of state protection.

This differs in several important ways from the Hobbesian theory. First, our surrender to the state is far more conditional, placing substantial restrictions on what sorts of actions the government can take and still be legitimate. This is why you see the U.S. founding father craft much of the language of the Declaration of Independence in terms of Lockean notions of natural rights.

Second, people have certain natural rights, meaning you are not justified in doing whatever you want while in the state of nature. This also means that the state is not justified in just taking any action to those outside of the social contract. This has important implications for interstate relations as well as those not legally documented within a state.

A common theme that runs through modern discussion of Lockean philosophy is the issue of consent. A common objection to Lockean philosophy is that no one actively consents to the social contract. This is often epitomized in the C.X. question "can you show me where I signed this contract". This notion of consent is a difficult one to solve. The common response is that individuals tacitly consent to the government by entering into the state, garnering benefits the government provides (like highways and police protection) or by accepting or procuring property.

This opinion, however, is controversial and often difficult to justify. In particular John Simmons argues that it is difficult to see how just coming into a nation is sufficient to sacrifice your rights to the state, especially given that most people have no idea about the nuances of the social contract and none of this is legally established with verifiable norms. It would be similar to me declaring that by entering my house for a party you had tacitly agreed to help me clean up afterwards. It might be that you should help me, but it's harder to see that now as a matter of justice it is necessitated, especially with no warning (it should be noted that Simmons does not reject the notion of consent, but argues instead that most people in nations have not consented and that really we are approaching a point of philosophical anarchism).

Modern Lockeans

While Lockean notions infuse much modern political philosophy and is almost assumed in much modern work, it has comparatively few real defenders. One of the few is John Simmons, who defends a general Lockean idea in a number of places. He lays out a simplified form of Lockean contracts in his article Locke and the Right to Punish. He also lays out some interesting and excellent points in his article Justification and Legitimacy. In particular Simmons describes an important distinction between justification and legitimacy. Simmons notes that there are two relevant questions when justifying state action: is there a justification for the existence of the state, and then is any action of the state legitimate?

This distinction can be illustrated with the question of punishment. When a state seeks to punish a guilty party there may be a myriad consideration as to whether it is a legitimate punishment. For example, is it proportional, will it deter, will it rehabilitate? However there is also the question of who is justified in punishing. For instance even if we decide that a punishment must be proportional to be legitimate it is still reasonable to assume that an individual vigilante is not justified in taking punishment into their own hands. The distinction is one of the right to act, vs. which act is right.

Applications to Debate

Lockean philosophy can and does apply in myriad ways to LD debate. In particular, Lockean principles can be useful when you want to set up a framework that seeks to limit the powers of government, or that creates particular obligations on governments. Thus if you want to argue that the government must preserve the safety of the public sphere you could argue that the government only has the authority to act if it is fulfilling its side of the bargain, and thus that X is a precondition to justified government action.

Rousseau's Social Contract Theory

Rousseau, writing out of reaction to Locke and Hobbes, forged his own social contract theory. While Locke and Hobbes were super influential to the development of American political theory, Rousseau marks the foundation for the political philosophy of Kant, Marx and Hegel.

Thus much of the continental traditions in political philosophy find their roots in the ideas of Rousseau.

While Rousseau makes some fascinating points in his book, *The Social Contract*, his theory is the most complicated and least clear of the three major social contract authors. Indeed, it seems doubtful that there is any coherent way to fit Rousseau's political philosophy into a single self-consistent overarching paradigm, and thus I will not try to do it but instead attempt to illustrate the general ideas Rousseau proposes.

Overview to Rousseau's Social Contract

Central to Rousseau's theory is the issue of freedom. Thus his famous line is "Man is born free, yet everywhere is in chains." At the core of Rousseau's theory is the idea that coercion is horrible, and fails to justify the state. Rousseau would argue that if you only obey the speed limit for fear of punishment that fails to justify the speed limit. If it did act as a justification then, according to Rousseau, might would make right.

Thus Rousseau argues that "The problem [for political philosophy] is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before."[64]

This is a difficult problem however, because coercion is an almost necessary property of the government. The government exists to restrict people's actions through laws and punishment.

Rousseau also rejects any attempt to utilize a historical precedence to establish the social contract. Rousseau argues that attempts to use history are impossible, because we have no capacity to really identify properties of humans in the state of nature. For Rousseau, our capacity to reason and understand is in many ways defined by the context in which we live and thus we read in those assumptions to any historical postulations. He provides many examples of this claim. For example he argues that we cannot know if there would be oppression in the state of nature:

> I hear it constantly repeated that, in such a state, the strong would oppress the weak; but what is here meant by oppression? Some, it is said, would violently domineer over others, who would groan under a servile submission to their caprices. This indeed is exactly what I observe to be the case among us; but I do not see how it can be inferred of men in a state of nature, who could not easily be brought to conceive what we mean by dominion and servitude.

---

[64] Rousseau, Jean Jacques. "XI." *The Social Contract or Principles of Political Right, Book 1,* 1762. Print.

Rousseau spends a lot of time and space in his "A Dissertation on the Origin and Foundation of the Inequality of Mankind" arguing that humans are naturally free, and indeed we lose freedom only when we come to be dependent on one another. Thus Rousseau believes that the worst choice humans ever made was the development of the idea of property because it led to people being in dependent relationships.

For Rousseau, unlike for Locke and Hobbes, a return to a pure state of nature would be desirable, although impossible. The worst for Rousseau, however, is a continuation of a state of mere interlocking dependence. The state is thus designed to solve the issue of dependence while still preserving in some sense the freedom we possess in the state of nature.

The way that Rousseau attempts to solve the issue of coercion and freedom is to argue that all humans take part in the general will, and thus when the general acts it acts on the will of everyone. To help understand this idea it will be valuable to pull on some of the refinements that Kant uses when attempting to formulate his own theory. The idea is that coercion is the use of another's means for an end other than their own. For example, it is wrong to use my neighbor's plywood to build my own birdhouse, but it would be fine to if they ask me to use their plywood to build a bird house for them, or to build myself a birdhouse if they grant me permission.

The claim is that one's freedom and body is an aspect of a person's means and thus restricting liberty constitutes a restriction of a person's means. However, if the laws are established by the general will in which I am included then the means are not being used for the will of another but for my own will. This means that the action is not coercive.

Because, Rousseau is so concerned with the general will it means his philosophy is often seemingly impractical, as it seems to imply some sort of needed direct democratic agreement. To elect representatives is to reestablish a relationship of dependency.

Modern Rousseauians

There are not many people who hold to a strictly Rousseauian conception of the social contract; however there are people who utilize very Rousseauian principles. Perhaps the most significant articulations of these principles come in the work of Kant's and Kantian political philosophy. Because Kant and modern Kantians consider freedom to be of paramount importance and coercion to be utterly impermissible, it means that attempts to justify the state find their roots vaguely in the works of Rousseau. Although a complete articulation of Kant's political philosophy would require its own article, the general outline can be found in the online Stanford Encyclopedia of Philosophy article on *Kant's Social and Political Philosophy* and a comprehensive analysis can be found in a very analytic and clear form in Arthur Ripstein's book Force and Freedom.

Applications to Debate

Rousseau's social contract is less frequently applied to debate. However, its influence on Kantian notions can be critically important for well-developed debates on Kantian political philosophy. Another potential use of Rousseau's theory is as an objection to many of the conventional arguments for anarchy. These arguments (when they are arguments at all) tend to be claims about the horror that is coercion. Thus a clear articulation about how the government is not necessarily coercive can be valuable.

A final though uncommon use of Rousseau's theory is to make arguments centered around principles of democratic representation. Because Rousseau is so concerned with the general and collective will, actions that are inconsistent with direct democracy are likely impermissible. One example of this application would be to argue for nuclear nonproliferation on the grounds that nuclear weapons basically provide the capacity to destroy the world in the hands of an unchecked few. It is impossible to have a collective vote on if we should retaliate with nuclear weapons in time, implying that the general will can have no place in decision surrounding the use of nuclear weapons.

Other Notable Social Contract Notions

While Hobbes, Locke and Rousseau are considered the primary and classical social contract authors, and a firm understanding of their ideas is of critical important to successful contract debate there are other major authors who write on these issues.

John Rawls

Rawls is perhaps the most significant political philosopher of the 20th century. His work Justice as Fairness has in many ways defined the landscape of much contemporary debate within the discipline. Rawls position is in some sense a social contract notion. Rawls contends that the task of political philosophy is to ensure that we don't provide arbitrary preference of some over others. He explains it as follows:

> The idea here is simply to make vivid to ourselves the restrictions that it seems reasonable to impose on arguments for principles of justice, and therefore on these principles themselves. Thus it seems reasonable and generally acceptable that no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice of principles. It also seems widely agreed that it should be impossible to tailor principles to the circumstances of one's own case. We should insure further that particular inclinations and aspirations, and persons' conceptions of their good do not affect the principles adopted. The aim is to rule out those principles that it would be rational to propose for

acceptance, however little the chance of success, only if one new certain things that are irrelevant from the standpoint of justice.[65]

Let's take as an example John Smith. Now, we will say John Smith is a red headed highly intelligent female orthodontist with very poor cardiac condition but otherwise excellent health. Now if John were to propose certain qualities of society and government and was acting out of her self-interest she may propose that redheads should all be given three servants, and that orthodontists should not have to pay income tax. Further, she would institute a health care system that provides exceptionally good orthodontic care. However, let us say that the majority of the population was in the same position as John Smith. It seems unlikely that a mere majority is a sufficient condition to make these arbitrary policies Just. Rawls thus proposes that when we design social and governmental structure we should do so from the original position, which means absent the way we have been incentivized to think by our position in society.

The way that Rawls attempts to achieve this is by using, as a thought experiment, the ""veil of ignorance". The way the veil works is that participants place themselves behind the veil in which they forget anything about their unique position in society and attempt to rationally construct a society that is most likely to benefit them.

Rawls thinks that behind the veil of ignorance, rational agents will operate according to maximin logic, in which you adopt policies so as to provide maximum benefit to the worst off. He believes this would be decided on because humans are naturally risk adverse. In other words, they won't risk poverty on the chance of having a pool. In order to use maximin logic, agents would operate according to two basic principles to guide the establishment of society. The first and most important principle is that you ensure that every person has equal basic liberties, and the second is the difference principle. The difference principle is that you arrange goods so as to benefit the least well off.

Thus if Rawls was to choose one of the following worlds, he would choose world two.

World	X's Happiness	Y's Happiness
1	10	10
2	20	30
3	5	100

The reason is because although world three, has greater total happiness, it results in someone worse off than the worst off person in world two. World two is also preferable to world one, because although it is less equal, it does not come at the expense of X, and is thus a permissible state of affairs.

This is an incredibly rough overview to Rawlsian political philosophy, but it should hopefully give you are starting place to begin to engage the literature.

---

[65] Rawls, John, and Erin Kelly. *Justice as Fairness: A Restatement*. Cambridge, MA: Harvard UP, 2001. Print.

Conclusion

While this only scratches the surface of the thought of Hobbes, Locke, Rousseau and Rawls it hopefully provides an overview so that you can delve and investigate some of these ideas on your own.

Criticisms of Social Contract Theory

By Priya Aiyar

This article briefly describes the Social Contract, and then in turn discusses common criticisms leveled against the social contract theories of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau.

Perhaps no philosophical concept is as commonly abused, misapplied, and oversimplified in Lincoln-Douglas rounds as the social contract. Most L-D debaters are familiar with the fundamental premises and arguments of the major social contract theorists, which will not be reiterated here. However, they often neglect to familiarize themselves with more subtle aspects and extremely important criticisms of these positions. This section will attempt to address some key problems raised by the social contract, beginning with general observations and then dealing with the theories of Thomas Hobbes, John Locke, and Jean- Jacques Rousseau, focusing on these three philosophers' flaws and shortcomings.

Overview

The basic idea of the social contract incorporates two primary values or principles - the importance of liberty, or the idea that governments ought to be founded on free will rather than force, and the primacy of justice, or the idea that moral rectitude should be the basis of political society. Social contract philosophy has proven practically applicable and successful; as political theorist Ernest Barker declares:

> Ernest Barker, <u>Social Contract</u>, Oxford University Press, 1947, p. vii.
>
> If it [the social contract] were judged by its fruits, on a pragmatic test of truth, it could bring to the bar of judgment a rich record of achievement.

However, the theory has been subjected to many valid criticisms. Many dismiss it on the grounds that it is contrived, not natural, in its explanation of the state of nature and society's origins. Mortimer J. Adler explains in his book <u>Ten</u> <u>Philosophical</u> <u>Mistakes</u> that proponents of the social contract regard the state as mechanical, rather than as the product of organic evolution which it really is. Robert C. Solomon states that the contract metaphor is predicated on false historical and anthropological assumptions and ignores humans' essentially social and emotional nature:

> Robert C. Solomon, A Passion for Justice: Emotions and the Origins of the Social Contract, Addison-Wesley Publishing Company, Inc., 1990, p. 57
>
> The social contract metaphor....presumes an outrageous pretension, that we can build society from scratch, and may have actually done so.

> Robert C. Solomon, A Passion for Justice: Emotions and the Origins of the Social Contract, Addison-Wesley Publishing Company, Inc., 1990, p. 60
>
> It is easy to see the appeal of [social contract] theory, but it is also easy to see what nonsense it is and how false a portrait of our nature…We are not and never have been naturally independent, and society has always been based, first of all, on the natural affections and affiliations in which we find ourselves with others. The idea that we could exist or have ever existed as purely autonomous creatures is at best an inspiring intellectual fraud.

> Robert C. Solomon, A Passion for Justice: Emotions and the Origins of the Social Contract, Addison-Wesley Publishing Company, Inc., 1990, p. 149-51
>
> The prominent foundation of so many current theories of justice - the so-called "social contract" and the contrasting "state of nature" - should be reconsidered within the context of this biological picture.... We are, like wolves and chimps, products not just of our genes but of the conditions in which we find ourselves, which are, first and foremost, social conditions. That is where the state of nature theorists go wrong; there is no individual in the state of nature, no war of all against all... We are social creatures.

Others argue that the social contract is *a priori*, not historical, in its interpretation of political order and authority, and that it is legalistic, not ethical, in its explanation of political obligation. These issues will be addressed in the context of specific theories later, but it is important to make one more comment on social contract philosophy as a whole. The social contract is actually composed of two ideas or contracts, which are connected but distinct. The first is the contract of government, the idea that the state is based on a contract between rulers and subjects. This idea, however, assumes *a prior* contract, a contract of society. There must already be an organized body politic before there can be an agreement between rulers and subjects. This is the social contract proper, and it actually includes a series of contracts between every member of the community and every other member.

Hobbes, Locke and Rousseau all emphasized the contract of society; none of the three, although there are some qualifications when it comes to Hobbes, dealt with a contract of government (we should note that while it is possible to believe in a contract of society without believing in a contract of government, it is not possible to believe in a contract of government without believing in a contract of society). According to Rousseau, the community created by the contract of society is self-governing, so there is no contract of government. According to Locke, the community chooses a trustee government; while it does not make a contract with the government, it may void the government for violation of trust. Finally, according to Hobbes, the community relinquishes all rights and authority to a sovereign Leviathan; there is no contract of government and the Leviathan is thus subject to no

contractual limits.

However, as mentioned before, there are two qualifications to this statement of Hobbes' position. First, Hobbes believes that all citizens agree among themselves to form a community and to obey a government; there is a contract of government, in a sense, but it is between subjects themselves, not between subjects and ruler. Second, subjects may rebel if the ruler fails to protect them adequately, so there is some sort of implied, very minimal contract between ruler and subjects.

We can now consider one key distinction between Locke and Hobbes. Locke abandons the notion of a contract of government because he feels it would place government in too powerful of a position - it would make government an entity independent of its citizens, with rights against its citizens, rather than as an institution which exists only for and through the people and is bound to their interpretation of its trust and duties. Hobbes rejects the contract of government for a diametrically opposite reason, because it would place the community in too powerful of a position, making the community an independent entity with rights against Leviathan. With these general ideas in mind, we can turn to specific criticisms of social contract theories, beginning with the theory of Hobbes.

Thomas Hobbes

Hobbes is probably the most frequently attacked of the contract philosophers. His negative view of human nature leads him to characterize the pre-societal state as a "war of all against all" in which human life is "solitary, poor, nasty, brutish and short." Individuals, to fulfill their basic need for security, simultaneously contract with each other to limit their liberty and obey a government: "I authorize and give up my Right of Governing my selfe, to this Man, or this Assembly of men, on this condition, that thou give thy Right to him, and Authorize all his actions in like manner." The sovereign they create, Leviathan, is authorized to do whatever it likes as long as it guarantees its subjects' security. The first common and important criticism of Hobbes is that his vision of the state of nature is overly pessimistic and historically incorrect, as John Bramhall states:

> John Bramhall, paraphrased by John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>, Alden Press, 1951, p. 121
>
> There is no evidence, says Bramhall, for the state of nature envisaged by Hobbes. Within their own species animals do not habitually prey on one another, and the evolution of civil society is due to cooperative effort. The very existence of civilization disproves the Hobbesian war of all against all.

However, Hobbes thinks of the state of nature as a philosophical construct rather than a historical actuality, so this point may be irrelevant. A more important criticism is that Hobbes dismisses all traditional ideas of natural law and natural right. At the same time, he believes

that humans will always act in accordance with certain universal laws of nature, particularly the law of self-preservation, and he bases his interpretation of the social contract on this belief. John Bowle points out this inherent contradiction:

> John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>. Alden Press. 1951, p. 126
>
> Here, indeed, Hobbes attempts to have it both ways. Having written off the traditional Law of Nature and made all law simply the command of a superior, saying in fact that "might is right", he invokes certain characteristics of human conduct as Laws of "Nature", backing up his man-made state.

Alexander Rosse, a contemporary of Hobbes, questions Hobbes' assertions that government action always benefits subjects and all exercise of government power is honorable. Like most other critics, he alludes to the tyrannical nature of the Hobbesian society:

> Alexander Rosse, quoted by John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>. Alden Press. 1951, p. 66
>
> "Whatsoever a prince doth," [Hobbes] says, "can be no injury to the subject." This doctrine will hardly down with freeborn people who choose to themselves princes, not to tyrannize over them but to rule them.

> Alexander Rosse, quoted by John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>. Alden Press. 1951, p. 67-8
>
> Hobbes, on the other hand, implies that "unjust actions joined with power are honourable." But, says Rosse, echoing St. Augustine, "Where there is government, unjust actions are punished, not honored..." Power is only justified if it is moral.

John Bramhall also indicts Hobbes for supporting a state based on negative utility, which is only concerned with protecting its citizens from harm and does not attempt to create any sort of positive, constructive moral vision:

> John Bramhall, paraphrased by John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>. Alden Press. 1951, p. 125
>
> Hobbes' negative utilitarianism....can give only a negative security...This blindness to moral values, the lack of a constructive vision, [Bramhall] implies, is one of the gravest limitations of Hobbes' outlook.

The final shortcoming of Hobbes' argument involves the impracticality of his theory. The authoritative form of government he suggests could not pragmatically fulfill even the limited

role of providing citizens with negative security:

> John Bowle, <u>Hobbes</u> <u>and</u> <u>His</u> <u>Critics</u>. Alden Press. 1951, p. 45
>
> On the other, political level there is little doubt that Hobbes was unpractical. Even if the state has the purely utilitarian function he suggests, it is very doubtful if the precarious authoritarian government which he advocates will long attain even this limited aim, nor.... would it be psychologically satisfying. In practice, a self-governing commonwealth succeeds much better in this purpose.

John Locke

The Hobbesian contract is not particularly well-suited to Lincoln-Douglas debate; it should not be difficult to defeat if you encounter it in a round. **John Locke's** social contract, on the other hand, is more commonly utilized and much more applicable to contemporary issues, yet there are also significant flaws in his theory. First, all of Locke's analysis is based on the premise that there are objective, absolute natural laws, yet he does not satisfactorily justify this assumption, as philosopher Robert Nozick explains:

> Robert Nozick, <u>Anarchy,</u> <u>State</u> <u>and</u> <u>Utopia</u>, Basic Books, Inc., 1974, p. 9
>
> [Locke] does not provide anything remotely resembling a satisfactory explanation of the status and basis of the law of nature in his <u>Second Treatise</u>.

Next, there are two major problems with Locke's conception of the state of nature. While Hobbes sees the state of nature as a philosophical tool, Locke believes it actually existed. However, there is much evidence and analysis which indicates that it is ludicrous to regard the state of nature as historical fact - refer to the Solomon cards above. Furthermore, Locke claims that in the state of nature, people will recognize limits on their liberty, and will rationally derive and follow natural moral laws. They only enter society to remedy three principal imperfections which result in the pre-societal state, where men are judges in their own case - partial judgments, insufficient force for the execution of judgments, and inconsistency in judgments passed by different people. The flaw, of course, in Locke's argument is that his state of nature is not a state of nature at all, but a political society with laws and guaranteed rights:

> Ernest Barker, <u>Social</u> <u>Contract</u>. Oxford University Press. 1947, p. xx
>
> ....the difficulty of such a pre-political condition as Locke describes is that it is really political. Locke's state of nature, with its regime of recognized rights, is already a political society.

Locke can also be criticized for his excessive individualism. Ernest Barker explains that Locke errs in basing his theories only on the sanctity and autonomy of the individual, without considering humans' inherently social nature (again, refer to the Solomon evidence) and the larger needs of the community:

> Ernest Barker, <u>Social</u> <u>Contract</u>. Oxford University Press. 1947, p. xix
>
> ....an individualism based on religion was made to trail clouds of ingloriousness. This is the penalty of making the solitary individual the pivot of all your thought....The figure of the Individual - seated on his desert pillar - this, in brief, is the symbol with which we are left, alike by the <u>Essay</u> and the <u>Two Treatises.</u>

A final problem with the Lockean contract concerns the ambiguity of sovereignty. Locke never resolves the question of where sovereignty in his society should lie - with the people, with their representatives in the legislature, or with the executive branch of government:

> Ernest Barker, <u>Social</u> <u>Contract</u>. Oxford University Press. 1947, p. xxv
>
> Locke has no clear view of the nature of sovereignty. He speaks at one time of the supreme power of the people, or in other words the community; he speaks at another of the supreme power of the legislative, which may, it is true, be the community but which may also be a body of representatives appointed by the community; and in still another context he remarks that "where....the executive is bested in a single person who has also a share in the legislative, then that single person, in a very tolerable sense, may also be called the supreme power". "Under which king, Bezonian," one is tempted to ask - community; legislative; or single person? Locke has no certain answer.

Jean-Jacques Rousseau

As the argument regarding sovereignty suggests, Locke is often attacked for his vagueness, as is the last philosopher we will consider, **Jean-Jacques Rousseau**. Rousseau was more of an *a priori* theorist than a practically experienced political philosopher, and he is generally acknowledged to be inferior to Locke in maturity and originality of thought. The first important criticism of Rousseau involves his love-hate relationship with the concept of natural law. It is interesting to note that his first draft of <u>The Social Contract</u> contained a chapter which aimed to refute the idea of natural law; he omitted the chapter in his final draft. Ernest Barker explains Rousseau's oscillations:

> Ernest Barker, Social Contract. Oxford University Press. 1947, p. xxix
>
> Where did Rousseau stand in regard to the idea of natural law? He hardly knew. On the one hand he needed it - for how could there be a legal thing like a contract of society unless there were a natural law in terms and under that sanction of which a contract could be made? - and he also found it in his authorities. On the other hand, he disliked it; and he felt in his bones that the nation made law, and not law the nation.

The most heavily and easily attacked aspect of Rousseau's philosophy is his idea of the general will, an expression of the public interest and the controlling factor of his idealized society. Rousseau never adequately defines the general will. He distinguishes it from the will of all, and describes it as a will of general and positive intention which may not be felt and believed by all, and may in fact be voiced by a single person, a "legislator", who truly understands what society requires. Rousseau attempts to use the general will in support of primary democracy, but his theory can also be used to justify tyranny and authoritarianism:

> Ernest Barker, Social Contract. Oxford University Press. 1947, p. xxxiii
>
> [The General Will] becomes in [Rousseau's] hand a keen two-edged sword which seeks to defend democracy (and primary democracy at that), but ends by arming Leviathan. Was not the Napoleon of the Code an admirable "legislator"?

Rousseau fails in his defense of primary democracy through the general will in another way. He dismisses representative democracy, and thus unintentionally dismisses democracy as a whole. Uncontrolled primary democracy is not feasible; Rousseau admits that a "mayor of the palace" would be needed to insure the supremacy of the general will. Again, the potential for tyranny is exposed:

> Ernest Barker, Social Contract. Oxford University Press. 1947, p. xxxiv
>
> We touch at this point on a cardinal difficulty in Rousseau's thought. He wants to use his two-edged sword [the general will] in defense of primary democracy...He rejects representative government, or parliamentary democracy. But he only does so to find in the issue that he has rejected democracy itself. The unguided democracy of a primary assembly without any parties is a *souverain faineant* [trans: idle sovereign]. A "mayor of the palace" must be provided; and we are left in the issue with Pepin of Heristal acting as legislator for the *souverain* [trans: sovereign].

A fundamental, underlying problem with the general will is that, while it may be theoretically attractive, it is unclear how it can be applied and enacted in practical political life. Rousseau never adequately deals with the pragmatic implications of the concept of the general will:

> Ernest Barker, <u>Social</u> <u>Contract</u>. Oxford University Press. 1947, p. xxxiv
>
> There is much to be said in favor of the idea of the general will, taken in and by itself. The problem is the translation of the idea; its application in actual life; the discovery of the organ through which it acts. It is here that Rousseau sails into troubled waters.

Lastly, Rousseau's contract can be critiqued for its failure to protect individual rights and liberties. Rousseau anticipates this argument and tries to preempt it by stating that, under his contract, every individual retains the power of self-government through their participation in the general will: "Each, giving himself to all, gives himself to nobody." However, while each citizen's interests make up only a minute portion of the general will, they must completely subordinate themselves to this will. Individuals are subject to tyranny:

> Ernest Barker, <u>Social</u> <u>Contract</u>. Oxford University Press. 1947, p. xxxiv
>
> Here Rousseau enunciates his famous paradox, "Each, giving himself to all, gives himself to nobody": in other words, each gives himself to himself, and each is still his own master. The paradox conceals a paralogism. I surrender all myself - and I surrender it all to 999 others, as well as myself: I only receive a fraction of the sovereignty of the community; and ultimately I must reflect that if I am the thousandth part the tyrant, I am also the whole of the slave. Leviathan is still Leviathan, even when he is corporate.

The Rousseauian social contract is deficient in many ways; it has been labeled an impractical, utopian fantasy. Rousseau himself agrees that the ideal of primary democracy which he supports can only be applied to small states (i.e. the Greek polis), and could never function in a nation like the United States.

In conclusion, it is important to remember that this section has presented only a few of the many possible arguments against the three major social contract theories. Debaters sometimes accept social contract philosophy as an infallible submission in a round simply because it is so often used and lauded. However, if you force your opponent to explain and defend the specific version of the contract he/she is advocating, and if you point out the problems, ambiguities and inconsistencies in his/her contract philosophy, you should have no problem defeating contract-based argumentation.

Bibliography

Adler, Mortimer J. <u>Ten</u> <u>Philosophical</u> <u>Mistakes</u>. MacMillan Publishing Co., Inc. 1985.

Barker, Sir Ernest. <u>Social</u> <u>Contract</u>. Oxford University Press. 1947.

Bowle, John. <u>Hobbes and His Critics</u>. Alden Press. 1951.

Buchanan, James M. <u>The Limits of Liberty: Between Anarchy and Leviathan</u>. The University of Chicago Press. 1975.

Buchanan, James M. <u>The Economics and Ethics of Constitutional Order</u>. The University of Michigan Press. 1991.

Dallmayr, Fred R. <u>From Contract to Community: Political Theory at the Crossroads</u>. Marcel Dekker, Inc. 1978.

Hampton, Jean. <u>Hobbes and the Social Contract Tradition</u>. Cambridge University Press. 1986.

Macneil, Ian R. <u>The New Social Contract</u>. Yale University Press. 1980.

Nozick, Robert. <u>Anarchy, State and Utopia</u>. Basic Books, Inc. 1974.

Solomon, Robert S. <u>A Passion for Justice: Emotions and the Origins of the Social Contract</u>. Addison- Wesley Publishing Company, Inc. 1990.

Theories of Justice

By Stephen Babb

This article begins with a discussion about the concept of Justice in LD Debate and offers some general thoughts on how theories of justice should be deployed in actual rounds. It then describes the core arguments advanced by Justice theorists John Rawls, Robert Nozick, and Communitarians like Michael Sandel and Amitai Etzioni.

When the average reader sees mention of "justice," the first thing that comes to mind may be something along the lines of the criminal justice system or the broader notion that those who do wrong should be punished. While this interpretation fails to describe justice's full range of meanings, it does share at least one fundamental premise with other ways we use the terminology of justice–namely the importance of what people *deserve*.

After all, when punishment is issued in a criminal context, we tend to think the guilty party receives what he or she deserves while the victim(s) (and/or their families) are at least partially compensated for whatever harms they suffered. These are questions of *retributive* justice. They address how injustices should be corrected and how order should be restored to a situation destabilized by crime. To be sure, punishment may also involve utilitarian considerations like protecting society from a dangerous criminal or deterring future crimes. But, these variables fail to explain how much punishment someone really *deserves*, and that's where justice comes into play.

Political philosophers deal with a far more expansive notion of justice. At the forefront of that notion are questions about what kind of protections, rights, entitlements and socio-political statuses ordinary people deserve. These concerns are sometimes categorized under the heading of *distributive* justice: How should social goods like wealth and power be distributed amongst members of a political entity?

LD topics may refer to justice explicitly or otherwise question what a political entity ought to do. While there are certainly moral dimensions to the conduct of administrative regimes (e.g. governments), we typically expect that they simply do what's fair. That may mean protecting certain kinds of rights, rectifying power imbalances between social groups or otherwise promoting laws and policy decisions that maximize the extent to which people get what they're due.

These are the kinds of questions that often emerge–either directly or indirectly–in a number of LD debates.

Justice and LD Debate

What we mean by justice can be an incredibly important consideration for debaters.

Debaters too often handle values like justice in one of two equally extreme ways. They either gloss over the subject as if it's irrelevant, or they spend far too much time making value-based arguments with little real strategic value. It's important that debaters pursue a balanced approach.

On the one hand, value-based questions can be virtually irresolvable. When debaters take on issues like whether justice or morality ought to be prioritized over the other, they risk engaging in a discussion that may never end.

On the other hand, debaters may be tempted to overlook nuanced features of their values altogether. Of course, they do so at the risk of derailing a debate and wasting time. If a topic requires a discussion of justice, questions about the moral status of governments may not be relevant. If the topic asks a question about individual ethics, the legal obligations of the state probably aren't germane.

There's certainly a good case to be made that we shouldn't be *too* picky about our values. After all, the bulk of the debate should commence at the contention level. But, that doesn't mean we can be sloppy. Justice is still only one way to think about what we *ought* to do. It is one of many approaches we can take to political dilemmas, and it's important we don't confuse it with other priorities. Rawls explains one way to think about justice in relation to other political objectives:

> Justice is to be understood in its customary sense as representing but *one* of the many virtues of social institutions, for these may be antiquated, inefficient, degrading, or any number of other things, without being unjust. Justice is not to be confused with an all-inclusive vision of a good society; it is only one part of any such conception. It is important, for example, to distinguish that sense of equality which is an aspect of the concept of justice from that sense of equality which belongs to a more comprehensive social ideal. There may well be inequalities which one concedes are just, or at least not unjust, but which, nevertheless, one wishes, on other grounds, to do away with.[66]

In other words, as tempting as it may be to lump justice in with a grab bag of values that generally fall under the mantle of "good stuff," it's important that we remain specific–or at the very least, clear.

---

[66] John Rawls, "Justice as Fairness," *Philosophical Review*, 67, 1958, p.164.

Justice and its Criteria

If justice is fundamentally about giving people what they're due, then a case criterion should help us better understand what that actually means in concrete terms. What can the government (or other administrative powers) do in order to promote justice (and do so consistently)?

It's here that abstractions like "government legitimacy" often take the place of metrics that would meaningfully assess the legitimacy of that government's actions. Debaters will similarly rely on unspecified measures like "protecting rights" or "promoting social welfare"–things that sound great but rarely help in resolving a dispute where there may simply be different kinds of rights or welfare interests at stake on both sides of an issue.

For example, an especially aggressive foreign policy might threaten the rights of foreign citizens while protecting the rights of a nation's own citizens. In that event, evaluating a policy by virtue of its implications for rights isn't especially helpful–it begs the question of which rights matter. Simply adding up the numbers of lives affected confuses a purely utilitarian evaluation with a decision that's actually based on rights. If we're truly interested in protecting rights, we need to decide which rights matter (and *why* they matter). Otherwise, anything labeled a "right" would be equivalent to anything else labeled as such.

That's not especially helpful to a debater attempting to show that the rights protected on his or her side of the resolution are the rights that matter most.

Analysis of a position's criterion should essentially establish a step-by-step guide for pursuing the value at hand–in this case, justice. There are a number of paradigms that influence what these steps should look like. The remainder of this essay will profile something of these paradigmatic traditions, giving you the needed background to develop coherent positions when valuing justice.

You should not, however, use these paradigms as criteria. John Rawls and Robert Nozick are not mechanisms that any government would use to create a more justice society. Government official may take some of their theoretical contributions into account, but it makes little sense to describe one's criterion as a philosopher (or a philosopher's theory).

John Rawls (1921-2002)

In 1971, Rawls published *A Theory of Justice* and forever changed the philosophical world with his bold attempt to situate questions of fairness well outside utilitarian considerations. In his view, people deserved to be treated in certain ways on the basis of rights–not what would maximize the public good. In turn, those rights were reflections

of human equality. While sheer luck may put people in a wide range of starting positions (rich, poor, brilliant, not-so-brilliant), we should arrange society so as to minimize the effects of those differences.

In general, Rawls is careful to avoid establishing a complete portrait for how society should work. He's committed to the notion that people should–for the most part–be able to build the kind of society that *they* want (rather than what a far-removed philosopher says they should want). But, he also thinks it's important that society is designed in such a way that people can actually pursue what they want. If political institutions are only reflecting the interests of some people, there's a problem with how society is designed. In other words, people should have the freedom to mold how their institutions are organized–but that freedom requires certain things from those institutions in the first place.

The most important requirement is that society be crafted in such a way that everyone's interests are taken equally into account. Rawls advances thought experiments to explain such a dynamic, namely the notion of an "original position" in which we contemplate the decision we might make from behind a "veil of ignorance." This is a hypothetical situation in which we imagine what people would want in a pre-social stage when they haven't a clue as to who they might be once they actually enter the society of their design:

> The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choices of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain.[67]

In other words, it would be all too easy for a rich person to prefer low taxes while a poor person prefers extensive redistribution, but what would someone want in the event they didn't know whether they were in fact poor or rich? Behind a veil of ignorance, our hypothetical members of society can only decide what would be fair from a completely impartial perspective. Unable to prefer an arrangement that would benefit particular socio-economic statuses, ethnic groups, gender or any other identity category, our imaginary subjects would arrive at the closest we can come to an objective conception of justice. According to Rawls, this hypothetical decision-procedure would produce two basic rules for organizing society:

> I shall maintain instead that the persons in the initial situation would choose two rather different principles: the first requires equality in the assignment of basic rights and duties, while the second holds that social

---

[67] John Rawls, *A Theory of Justice*, 1971, p.12.

and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.[68]

In many respects, this line of thinking is simply an updated account of the social contract. It accepts the importance of people agreeing to the fundamental premises of those social arrangements to which they belong. Much like earlier contractual theorists (like John Locke), Rawls acknowledges that any fair arrangement prioritizes our freedom, but he also insists upon an arrangement that benefits those who enter society with disadvantages. This egalitarian thrust is largely what sets Rawls apart from so many of his peers and predecessors.

The emphasis on equality extends beyond how we distribute wealth. It also speaks to the way we make *any* decision that has a distributive effect (be it an allocation of risks, opportunities, harms or benefits). For example, it probably isn't especially fair for a nation to put only its lower classes on the front lines of the battlefield. That may not directly involve equalizing wealth, but it relies on the same kind of principles. Any debate topic that implicates inequality should, in turn, be an opportunity to use Rawls' thinking.

Debaters are often tempted to use Rawls when describing a criterion for justice, and rightfully so. His approach is certainly one of the more compelling ways to think about a just society–especially when it comes to questions of economic disparity and equality. Nevertheless, there are a few things to avoid when integrating his arguments into your position.

First, the "veil of ignorance" isn't really a criterion. Your criterion should be a mechanism that actors in the topic (e.g. the federal government) would be able to use in order to produce fair outcomes (or whatever). The veil of ignorance may be a tool we should use when determining what that criterion should be, but ultimately we don't necessarily want our public officials to spend their time doing thought experiments. That probably wouldn't be the most productive use of their time.

Second, don't get too carried away explaining the inner workings of Rawls' theory. Yes, it's interesting. But, it's also just one interpretation of justice, and it certainly has a few criticisms out there. This means that even if your position relies primarily on Rawls' conception of justice, you should think about reasons that position would be important under alternative frameworks as well (you should probably be doing this regardless of what kind of philosophy you're relying upon). Remember, in the real world, we often evaluate our actions according to several different paradigms. Debaters obviously

---

[68] John Rawls, *A Theory of Justice*, 1971, p.14-15.

pursue more refined decision-making, but it's pretty difficult to establish that we shouldn't care about *anything* outside of Rawls' framework.

Third, Rawls isn't an entirely practical theorist, and debaters need to take that into account. He describes how we should attempt to pursue fairness under ideal conditions, but it goes without saying that such conditions are almost never a reality. We can still use his premises to inform our discussion, but it's not entirely reasonable to ignore the myriad ways in which inequalities are simply inevitable. Additionally, when choosing between the lesser of evils (or the least imperfect of social institutions), it's inevitable that utilitarian priorities will creep back into the picture.

Assuming one can avoid these pitfalls, Rawls can be a useful means of explaining why equal treatment should be paramount in any number of contexts. When deploying such a strategy, it may be wise to appeal to the social contract tradition that Rawls himself relies upon. Rather than simply regurgitating the conclusions he derives from his assessment of the original position, it's important to explain why we care about that original position in the first place (i.e. why it matters that people arrive at an agreement about what their society looks like).

Robert Nozick (1938-2002)

Nozick offered a vision of justice that radically differed from Rawls' foundational premises. Rather than viewing justice as a guarantee of equality, he sees it first and foremost as a measure of our liberty. The perfectly just society is one in which people are as free as possible, even if that freedom creates the kind of inequality Rawls warns us against.

While Nozick would agree with Rawls that rights should take priority over utilitarian concerns, he means something very different by those rights. The question of fairness becomes a fundamentally procedural one in Nozick's world, and rights are imagined as moral constraints rather than substantive entitlements. Those constraints may very well prevent certain actions (e.g. redistribution) that would violate a person's right to the property they legitimately acquired.

This libertarian version of justice is more interested in how we come to possess things than it is what things we possess. Whereas Rawls asks us to divide our shares of the social good more equally, Nozick is only interested in how we go about claiming our share. So long as the means are legitimate (i.e. they respect rights and so forth), then the outcome is too. This grounds justice in the *history* of what we own rather than the *distribution* of what we own:

> The entitlement principles of justice in holdings that we have sketched
> are historical principles of justice. To better understand their precise

character, we shall distinguish them from another subclass of the historical principles. Consider, as an example, the principle of distribution according to moral merit. This principle requires that total distributive shares vary directly with moral merit; no person should have a greater share than anyone whose moral merit is greater. (If moral merit could be not merely ordered but measured on an interval or ration scale, stronger principles could be formulated.) Or consider the principle that results by substituting 'usefulness to society' for 'moral merit' in the previous principle. Or instead of 'distribute according to moral merit,' or 'distribute according to usefulness to society,' we might consider 'distribute according to the weighted sum of moral merit, usefulness to society, and need,' with the weights of the different dimensions equal.[69]

Just as Nozick judges a just society to be one that preserves a historical (rather than distributional) concept of ownership, so too does he treat rights as procedural protections rather than entitlements to certain social goods (from health care to welfare). Redistribution becomes problematic on account of the fact that it violates the rights of property owners. Of course, Rawls would ascribe rights to those who *lack* property in the first place. In Nozick's view, this confuses true individual rights with an abstract conception of the collective good:

> Side constraints express the inviolability of other persons. But why may not one violate persons for the greater social good? Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; some persons diet to improve their health or looks; some save money to support themselves when they are older. In each case, some cost is borne for the sake of the greater overall good. Why not, *similarly*, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good? But there is no *social entity* with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits others. Nothing more. What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Intentionally?) To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has. *He* does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him--least of all a state

---

[69] Robert Nozick, *Anarchy, State, and Utopia*, 1974, p.155-157

or government that claims his allegiance (as other individuals do not) and that therefore scrupulously must be *neutral* between its citizens.[70]

At the end of the day, then, Nozick simply takes the Kantian maxim of treating people as ends to its most literal extreme. It's never legitimate to use a person to benefit others, especially when the person being used isn't a party to the beneficial outcome.

Obviously, Nozick is a valuable resource when responding to just about any Rawlsian position. While Nozick shares many of Rawls' most foundational beliefs about the requirements of justice, his conclusion suggests we must satisfy those requirements in radically different ways.

In a typical LD debate, then, you'd be most likely to see Nozick used when responding to a criterion based on Rawls' egalitarianism. When someone employs a criterion that involves "eliminating poverty" or "reducing inequality," chances are Nozick's insistence on pursuing those goals without violating property rights would be an appropriate response.

Nozick is also useful when challenging any utilitarian objective that infringes upon individual rights. While these agendas may be politically legitimate in general, they immediately become problematic when trampling on rights.

Of course, there are a few problems with Nozick's relatively absolutist stance. Never mind that it poses huge practical problems for societies that rely on various forms of redistribution. Without the kind of social programs that reduce the gaps between haves and have-nots, you can imagine how severely lives would be disrupted. More importantly, though, Nozick assumes an idealized notion of transactions. He pretends as if the buying, selling, and inheriting that take place in a "free" market are indicative of consistently fair transactions–an assumption that doesn't withstand much scrutiny with even a cursory examination of *real* markets.

Communitarianism

While Nozick serves as a valuable alternative to John Rawls' conception of justice, communitarianism responds to the basic premises that the two liberal thinkers share in common.

Communitarian thinkers like Michael Sandel and Amitai Etzioni depart from both Rawls and Nozick in important ways. Whereas the liberalism espoused by most political thinkers interprets justice as a question of how the individual should be treated, communitarians suggest that such a prioritization is lexically backward. According to this view, we construct individuals as abstractions from their concrete social contexts.

---

[70] Robert Nozick, *Anarchy, State, and Utopia*, 1974, p. 32-33

At best, this tendency creates a distorted view of people and their needs. At worst, it disadvantages members of the community at large due to overemphasizing particular claims made by or on behalf of individuals.

From a theoretical standpoint, the inadequacy of liberalism stems from its misrecognition of human nature. We are fundamentally social animals, and what we "deserve" in a just society is inextricably linked to the identities we forge among those joining us in the shared project that is society (as Michael Walzer explains):

> Justice is relative to social meanings. Indeed, the relativity of justice follows from the classic non-relative definition, giving each person his due, as much as it does from my own proposal, distributing goods for 'internal' reasons. These are formal definitions that require, as I have tried to show, historical completion. We cannot say what is due to this person or that one until we know how these people relate to one another through the things they make and distribute. There cannot be a just society until there is a society; and the adjective *just* doesn't determine, it only modifies, the substantive life of the societies it describes. There are an infinite number of possible cultures, religions, political arrangements, geographical conditions, and so on. A given society is just if its substantive life is lived in a certain way–that is, in a way faithful to the shared understandings of the members. (When people disagree about the meanings of social goods, when understandings are controversial, then justice requires that society be faithful to the disagreements, providing institutional channels for their expression, adjudicative mechanisms, and alternative distributions.)[71]

Communitarians clearly owe something to a more sociological assessment of political questions. From a description of human nature, it proceeds to a number of normative implications, including more than a few with a distinctly relativist twist.

But, while the theoretical logic underpinning these positions is sometimes suspect, there's a very practical appeal to the communitarian's plea for a more balanced approach to the constant tension between individuals and the communities to which they belong. Legal mechanisms like "rights" and the litigation associated therewith have become such a dominant norm in our social space that we often forego collective solutions. Additionally, our very tendency to *think* in terms of rights and individuality may replace a more other-centered focus. Amitai Etzioni explains how individualism can become a problem in practice:

---

[71] Michael Walzer, "Spheres of Justice," (Excerpt - 1983), <u>Justice: A Reader</u> (2007), Ed. Michael Sandel. Oxford University Press. p. 341

> Even if lawyers and judges realize among themselves that individual rights are limited by the rights of others and the needs of the community, as the language of rights penetrates into everyday discourse, the discourse becomes impoverished and confrontational. It is one thing to claim that you and I have different interests and see if we can work out a compromise; or, better yet, that we both recognize the merit or virtue of a common cause, say, a cleaner environment. The moment, however, that I claim a *right* to the same piece of land or property or public space as you, we start to view one another like the Catholics and Protestants in Northern Ireland or the Palestinians and Israelis in the Middle East.[72]

This represents a fairly radical shift in how we think about justice. Rather that asking what we're owed, communitarian premises demand that we instead focus our attention on how we can help others and foster an ethic of mutual support. From a political perspective, the state should devote its resources to propping up the social institutions that make society a viable project in the first place. That means that questions about redistribution (for example) shouldn't be subject to the same kinds of "fairness" questions liberals like Rawls and Nozick engaged. Instead, we simply ask: What would be in the best interest of a healthy community?

These kinds of arguments would be useful against just about *any* debater working within the framework of traditional rights (or other liberal institutions premised on individual freedom). They establish a completely different mindset for evaluating policy decisions and government structure, one that remains consistent with many of our most intuitive beliefs about what's good for our neighbors and our selves alike.

Unfortunately, communitarianism often seems to go too far. At best, it suffers from many of the same problems we associate with utilitarianism. After all, what's the "community" other than a term we assign to a group of people that outnumbers a particular individual?

Additionally, communitarian thinking would seem to lead to some pretty totalitarian outcomes. If individuals shouldn't be protected by absolutist claims (like rights), then what's to stop the interests of the community from being imposed at the hands of an authoritarian regime?

As intriguing as the evolution surrounding theories of justice has been, some of our most traditional and basic assumptions about our rights and protection may remain every bit as pertinent today as they did for the likes of John Locke and John Stuart Mill.

---

[72] Amitai Etzioni, *The Spirit of Community,* 1993, p. 7.

Rawls, Sandel, and Reiman:
Social Justice through the Eighties

By Jeremy Mallory

This essay describes the philosophy of John Rawls, criticisms of that philosophy leveled by Michael Sandel, and finally Jeffrey Reiman's defense of Rawlsian principles.

John Rawls

John Rawls, Michael Sandel, and Jeffrey Reiman are defining the progress of philosophy into the next century through their different conceptions of social justice.

John Rawls is mostly known for his magnum opus *A Theory of Justice* published in 1971. This tome sets down one of the only comprehensive, complete answers to Plato's question "What is justice?" This is an important question to Rawls because he thinks justice is the key organizing force in society, the "first virtue of social institutions."[73] He immediately asserts the primacy of justice as a value, and designates the basic guideline "justice as fairness." He spends the rest of the book determining exactly what the principles of justice should be and how they apply to our lives. Rawls uses a unique approach to determine these principles of justice: the *Original Position* and the *Veil of Ignorance*.

Rawls wants to determine principles of justice that are totally objective, which means that nobody could have manipulated them to their advantage. He does this by setting up a hypothetical situation which he calls the Original Position. The Original Position consists of a group of people with a common task assigned to them: construct the principles of justice around which a society can be built. Since they will all be members of this society, they could conceivably use this opportunity to bias the rules of the society (its principles of justice) in their favor, against others. Rawls preempts this by placing one other stricture on the Original Position: the Veil of Ignorance. The Veil of Ignorance is the assumption that these hypothetical legislators know nothing specific about themselves which might make a difference in the theory of justice they arrive at. For example, they wouldn't know their race, health, age, strength, intelligence, position in society, sex, religion, wealth, or parentage. Without this knowledge, they, theoretically, will arrive at a totally objective and unbiased decision on the principles of justice that will underlie their society simply by legislating out of their own self-interest. For example, they would not agree to slavery as a principle of justice because they might end up as slaves once they enter society. After looking over a list of different alternatives, Rawls argues that they will reject other choices in favor of three particular principles of justice. First, all rights are to be distributed in such a way that the maximum system of rights belonging to any one

---

[73] Rawls, John. <u>A Theory of Justice.</u> Belknap Press: Cambridge, 1971. p. 3

individual is consistent with an equal and maximum system of rights for all other individuals (rough paraphrase.) Second, all goods and opportunities are to be distributed in such a way that the least advantaged individual receives the greatest advantage. Third, the first principle has lexical priority.

Huh?

The First Principle distributes rights. All of Rawls' jargon essentially boils down to giving each person rights to the point they interfere with somebody else's rights: "my rights end where yours begin." This closely echoes the substance behind Locke's social contract.

The Second Principle, more often called the Difference Principle, is the unique mark Rawls put on justice. This principle determines how goods are to be distributed fairly (clearly an important principle for any stable government). Simply put, those who have the least ought to get the most out of any distributional scheme. This principle is the reason why many debaters incorrectly assume Rawls is a socialist or a communist (those terms have political connotations that really don't seem to fit Rawls). This principle, in isolation, seems quite simple to understand.

The larger complication comes with the concept of lexical priority. This simply means that the second principle ought not to be upheld if it means violating the first principle at the same time: ensuring fair distribution of rights carries a higher obligation than ensuring fair distribution of goods. The other two principles seem fairly straightforward, even intuitively true. This is the principle that marks Rawls as a true liberal and also brings Rawls' philosophy into sharper focus. Many debaters forget that the most distinctive part of his philosophy, the Difference Principle, is still subsidiary to considerations of rights. For example, Rawls would not advocate "murdering someone, committing mayhem, breaching a promise, falsely imprisoning another, enslaving him, libeling him, and rendering him destitute" as Mortimer J. Adler contends, because all of these are, as Adler recognizes in the next sentence, "all violations of rights, not violations of the precept that equals should be treated equally."[74] What Adler fails to realize is that those violations of rights makes these action unjust, as the First Principle clearly states, even if they are for the greater social good, or even if they improve the lot of the worst off. Rawls would not defend Robin Hood: yes, Robin is upholding the Difference Principle, but at the cost of the First Principle (he is stealing and therefore violating rights). Rawls blueprint for finding these three principles of justice would set up a society governed by objective principles of justice that give a fair recognition and hierarchy of the rights of all the individuals in the society. The constructs of the Original Position and the Veil of Ignorance are important tools for understanding Rawls and the basis behind his thoughts.

Michael Sandel

In 1982, Michael J. Sandel, a younger member of the philosophy department at Harvard,

---

[74] Adler, Mortimer J. Six Great Ideas. Collier Publishing: New York, 1981. p. 188

published a rebuttal to Rawls that leveled arguments against Rawls that he hasn't replied to yet. First, he challenges the primacy of justice. Second, he disputes the conclusion Rawls claims the people in the Original Position would draw. Third, he disputes the basic idea behind an Original Position.

Sandel's first major challenge is to the primacy of justice in the theories of John Rawls, and even extends the critiques to the obsession liberalism as a whole has with the idea of justice. The rights that Rawls deals with are the traditional conceptions of negative rights that keep people off of each other's backs: don't pry, don't ask, don't touch, don't help, just don't. Justice serves as a measuring stick to arbitrate any disputes between rights. Essentially, justice serves to strengthen these divisions between people. We don't know enough about others to be able to trust them, so we need justice as a safeguard to ensure that nobody screws around with us. "Where for Hume, we need justice because we do not love each other well enough, for Rawls we need justice because we cannot know each other well enough for even love to serve alone."[75] Justice essentially depends on people not trusting each other and becomes irrelevant once they do. Since justice is the organizing principle behind a society, the society must be of people who don't really trust each other, and lack of trust is a pretty strange basis for a society.

Sandel then challenges the conclusions reached in the Original Position by introducing the idea of bias. Rawls allows the individuals in the Original Position to know their identity, but not certain details of it. Sandel argues, however, that the ends individuals choose to pursue constitute an important part of their identity (Sandel terms these types of ends "constitutive ends"). Thus he must allow them to know some of their ends. Once that is allowed, however, the problem of gambling enters the picture. An individual in the original position could, in theory, gamble that they will not end up in a certain position and would thus skew the deliberations. For example, if they were willing to risk that they would be in the master class instead of the slave class, the individuals in the Original Position could, in theory, arrive at slavery as a principle of justice. If the Original Position does not preclude gambling, then most of the conclusions that Rawls draws, most notably the principles of justice themselves, become moot. Unfortunately, there is no reason to assume the people in the Original Position will not gamble, and Sandel's analysis on constituent ends gives us reason to believe that they will.

Finally, Sandel attacks the basic idea behind the Original Position on several different levels. First, Rawls assumes (as do all other social contract philosophers) that people exist, at some point or another, outside of a society (i.e.: humans are pre-political). In Rawls, this assumption manifests itself in the Original Position (other contractarians call it the state of nature). In all cases, this pre-political state is hypothetical: humans never have existed outside of a society. Sandel takes this to the next logical step: humans can never exist outside of a community. Humans are born as blank slates which their environment, their community writes on. Humans can only make sense of the world, can only understand anything through the lenses of what their community has already inscribed in their minds. This means that true individual identity doesn't exist: the individual identity is inseparable from the community. This idea has important

---

[75] Sandel, Michael J. Liberalism and the Limits of Justice. Cambridge University Press: Cambridge, 1982. p. 172

implications for John Rawls and, by extrapolation, for all social contract theorists. These theorists have already been forced to admit that their theory, the social contract, is based on a hypothetical agreement made in a hypothetical state of nature, but now they have to face the idea that the state of nature they are talking about may also be nonsense. If humans cannot exist outside of a society, assuming they are pre-political (as all social contracts must) literally makes no sense. In the past, they could assume humans were once pre-political because the idea was, at least, conceivable. It made sense. With Sandel's argument, making that assumption no longer makes any sense and the basis of social contract theory disappears.

Sandel also has a more specific objection to Rawls' Original Position: the construct is, depending on the assumptions made, either too subjective or too objective to determine any functional principle of justice. On one hand, it fails to detach itself enough from the society (and, most importantly, its values) and assumes a lot about what the participants would care about. Rawls' emphasis on rights is a purely Western liberal notion. He assumes that all people are self-interested and look out only for themselves, and further that they all share some conception of basic goods. These are really big assumptions. Not all rational humans behind a hypothetical Veil of Ignorance would share these concerns, but unless they do, Rawls assumptions about how they would legislate are insupportable. On the other hand, maybe it achieves too much distance: the humans in the Original Position are too abstract to yield viable principles. Rawls tries to strip humans to their basic essence, but never specifies exactly what is left. One of the key principles the Veil of Ignorance doesn't remove is self-interest: these hypothetical legislators are motivated by a desire to maximize benefit and minimize risk. Unfortunately, that hardly gives any specific data on what society to choose. Further, there are simple human characteristics they might have (like stupidity) that would not be removed by the Veil of Ignorance. These characteristics pose two problems. If somebody shares in the prevalent human characteristic of stupidity, how are they going to abstract enough to be able to figure out the calculus Rawls uses to prove his principles would be adopted? Further, what is to prevent those salient characteristics from becoming an issue in the Original Position? Couldn't the legislators, for example, gang up on the stupid people?

Jeffrey Reiman

Overall, Sandel poses some important challenges which Rawls has not yet answered, though rumor has it that a reply is in the works (as of July 1992). Jeffrey Reiman of American University, however, has published a defense of Rawls against Sandel's critiques. He conceives of justice not as fairness but as "reason's answer to subjugation".[76] Subjugation, in this case, would be one person asserting their will over another not because they should but because they can. This theory answers each of Sandel's objections, beginning with his argument with the primacy of justice.

Sandel's idea that justice is primarily divisive is based on the assumption that justice places only rights into a hierarchy. If justice exists to prevent subjugation, it must do much more. It

---

[76] Reiman, Jeffrey. <u>Justice and Modern Moral Philosophy.</u> Yale University Press: New Haven, 1990. p. 1

becomes the measuring stick against which we must weigh all other values. Values become important when they motivate us to action, but become even more important when they are tools which allow us to interact with and persuade others. Unfortunately, if that persuasion is not overseen by some higher value specifically designed to prevent it, subjugation can occur: the person arguing with the most might instead of the most right will win. Some overarching standard must exist to weigh values in order to keep moral interaction between people from becoming subjugation. More importantly for Sandel, however, this fear of subjugation is inherent: all humans avoid it and regard it as bad. Thus they will not trust or love one another until some safeguard exists to allay the fear of subjugation. The trust and love upon which a community relies both depend on a system of justice which prevents the suspicion of subjugation from driving a wedge in the community. Thus, justice must retain its primacy as an answer to subjugation.

The answer to the gambling objections is a bit lengthier. On one level, gambling can be excluded because it ruins the hypothetical test. Reiman freely acknowledges that the Original Position is indeed a hypothetical situation, a test: if a principle meets the self-interest of all individuals (for Reiman, this means eliminating the suspicion of possible subjugation), then it is just. Allowing gambling makes the test impossible: the suspicion of subjugation always exists as long as gambling is part of the context. Thus, since the Veil of Ignorance is the hypothetical vehicle which brings us to an understanding of how to eliminate the fear of subjugation, gambling must be written out of the Original Position and the results will not be skewed.

Sandel's critique of Rawls (and the entire social contract tradition) as assuming literal nonsense, a pre-political human, receives much the same answer from Reiman: the entire idea of a social contract is a hypothetical test. It is a mistake to assume there is some actual document we signed as infants that compels our obedience: the social contract is a hypothetical test to see if the main condition for a society (freedom from the suspicion of subjugation) is met. Thus, it doesn't matter whether or not it makes sense: it is simply a hypothetical test that, admittedly, is not a possibility in reality but conceivable nonetheless in our minds.

The same answer, with a few modifications, also answers the dilemma that Sandel poses. If Reiman is right, the only assumption that this theory needs to make is that subjugation is bad. Nothing else. This seems like a reasonable assumption that is shared universally: it is wrong for might to triumph over right. Thus the Original Position does not make as many assumptions as Sandel claims it does. On the issue of abstraction, the idea of the Original Position as a hypothetical test again explains the response: these sorts of specifics don't matter as long as the Original Position is only a test for subjugation, which is all Reiman needs it to be. Further, the bare essence that is left, aversion to subjugation, is all that is necessary to reach the principles of justice that Reiman presents.

If justice is conceived of as reason's answer to subjugation, many of Sandel's critiques of Rawls' "justice as fairness" lose their impact. Reiman revises and extends Rawls' analysis and reasserts the primacy of justice as an arbiter of values. Examining the progress of social justice through the works of Rawls, Sandel and Reiman is a good way to see philosophy as it is really done by

real live philosophers. All three of these writers are useful in Lincoln Douglas if their theories and their critiques of each other are well- understood. They are well worth reading since they will be defining the philosophical boundaries for the debate over social justice well through the next decade.

To Each What S/he Deserves: Desert and Justice

By Eric Beerbohm

This article begins by describing our sense that justice is related to notions of desert. After a brief account of justice in pre-enlightenment thought, the article describes three different conceptions of desert flowing from major political theories. The final section discusses appeals to desert in policymaking contexts.

"If the misery of our poor be caused not by the laws of nature, but by our institutions, great is our sin." – Charles Darwin[77]

In mainstream Lincoln-Douglas debate, the concepts of justice and rights are discussed synonymously. The debater who defines justice is giving each person her or his due, under cross-examination, often grants that people are due the protection of their individual rights. John Stuart Mill presents this sort of view in the fifth chapter of *Utilitarianism*: Every justice claim is reducible to as a claim of individual rights.

> J.S. Mill, Utilitarianism in Utilitarianism, On Liberty, and Representative Government, ed. by A.D. Lindsay (London, 1964), p. 46
>
> Justice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as his moral right.

Putting aside *rights-claims*, there is a distinctive set of claims, which we can call *desert-claims*. Desert-claims underlie everyday conceptions of justice and possess a very different character than rights-claims. In the broadest sense, when we say that "A deserves X," we are saying something like "It is fitting for A to have X."[78] Alasdair MacIntyre paraphrases a notion of desert which he finds in Aristotle and Aquinas:

> Alasdair MacIntyre, *Whose Justice? Which Rationality?* (London, 1988), p. 39.
>
> Justice is a disposition to give each person, including oneself, what that person deserves and to treat no one in a way incompatible with their deserts.

If we take this definition to be correct, then justice is nothing more than judgments of desert-claims. This tells us nothing so far about what is the structure and substance of desert-claims. Simply put, they describe the relationship between the conduct of an individual and society's response to that conduct, whether in the form of reward or sanction. Here we have a helpful definition of the concept of desert as it is used in debates over distributive justice:

---

[77] Charles Darwin, *Voyage of the Beagle* (Penguin, 1989), p. 7.
[78] David Miller, *Social Justice* (Oxford, 1976), p. 83.

> David Miller, *Principles of Social Justice* (Harvard, 1999), p. 135.
>
> When desert judgments are made, some agent A is said to deserve some benefit B on the basis of an activity or performance P. A is most often an individual but may also be a collective such as a football team. B is something generally considered beneficial to its recipient: a prize, a reward, income, a promotion, an honor, praise, recognition, and so on. P may be a single act or a course of activity extending over time. The important thing is that P should be in the relevant sense A's performance; that is, A should be responsible for P.

To give people their "just deserts" seems, to many people, what the state should be in the business of doing. In everyday language this is taken to mean the following slogans:

- Economic rewards should go to the *deserving.*
- Victims of criminal wrongdoing *deserve* compensation.
- Criminals should get their *just deserts*.

This chapter is an attempt to better understand the concept of desert in both political theory and policy practice. Appeals to desert play a prominent role in the moral consciousness of the American public, and presumably the average debate judge.[79] It therefore seems worth asking whether it makes sense to reduce all discussions of desert to discussions of rights.

I. Theories of Desert in Political Philosophy

Political philosophers of antiquity, notably Aristotle and Aquinas, embraced a conception of justice as virtue that pays a great deal of deference to desert-claims. Aristotle's vision of justice drew upon the views of justice of everyday Athenians. For him, the task of the political philosopher is to clarify what we mean when we invoke justice on an everyday basis. Aristotle's theory of justice as a political golden mean starts with convictions, or what is called by contemporary philosophers, "considered judgments," that he assumes his students to have.

In the *Nicomachean Ethics*, Aristotle presents a view which we can call *justice as axia*, or merit. Because there is no precise Greek equivalent for "desert" in its modern use, the closest concept we can look to is "merit."[80] These two terms today have distinct meaning. *Merit* often refers to the admirable qualities in a person while *desert* refers more precisely to conduct of the individual for which he or she had control.

---

[79] See David Miller's "Distributive Justice: What the People Think," *Ethics*, 102 (1991-1992), pp. 555-593 for a survey of empirical data on what people think a just society would look like.
[80] This is pointed out by Miller in *Principles of Social Justice* (Harvard, 1999), p. 126.

> Aristotle, Nicomachean Ethics Bk. V: Ch. 3, 25 from Introduction to Aristotle ed. by Richard McKean (McGraw-Hill, 1947).
>
> [A]wards should be 'according to merit'; *for all men agree that what is just in distribution must be according to merit in some sense*, though they do not all specify the same sort of merit, but democrats identity it with the status of freeman, supporters of oligarchy with wealth (or with noble birth), and supporters of aristocracy with excellence.[81]

Notice that Aristotle is simultaneously acknowledging the view of social justice which on which "all men agree" while demonstrating an ambiguity that runs through it. Advocates of democracy view "merit" as a trait equally possessed by citizens; proponents of an oligarchy link merit to wealth; and aristocrats see merit as possessing excellence. The *concept* of distributive justice here is clear: Justice is the allocating of goods in proportion to the merit or desert of individuals. Aristotle ultimately argues that all of these three *conceptions* of merit are problematic, and that merit should be determined by appeal to the moral virtue of the individual.

Thomas Aquinas echoes the Aristotelian view, and I mention it here only because it acknowledges the difference between the role of desert-claims in debates of distributive justice, on one hand, and retributive justice, on the other. In *Summa Theologica*, Aquinas argues that our position in society, "our station," should be determined by "the various deserts of persons." On Aquinas's view, justice is:

> Aquinas, *Summa Theologica*, ed. by Anton C. Pegis, (London, 1918), II-II, Qu. 58 (vol. 10, p. 115).
>
> [A] habit whereby a man renders to each one his due by a constant and perpetual will...In order to observe the mean in distributive justice we have to consider the various deserts of persons. Now a person's deserts are considered also in commutative justice, for instance, in punishments, thus a man who strikes a prince is punished more than on who strikes a private individual.
>
> In actions and passions a person's station affects the quantity of a thing: for it is a greater injury to strike a prince than a private person. Hence in distributive justice a person's station is considered in itself, whereas in commutative justice it is considered in so far as it causes a diversity of things.

For Aquinas, both in distributive justice *and* commutative (legal) justice, desert-claims are the crucial factor in resolving political questions. We are not yet told *how* we are to consider people's deserts, only that they are the central factor when we deliberate about justice.

---

[81] *Italics added for emphasis.*

Perhaps because appeals to desert by political philosophers of the past has not adequately clarified how exactly we measure and justify the concept, modern political philosophers have avoided appealing to the concept when theorizing about justice. Three leading schools of political philosophy distance themselves from the term: egalitarian justice as fairness (Rawls), libertarian justice as entitlement (Nozick), communitarian justice as shared meaning (Sandel).

A. Justice as Fairness

Rawls's position of desert has been the subject of a tremendous amount of criticism, most notably by Michael Sandel's *Liberalism and the Limits of Justice*. Rawls claims that Aristotle's own definition of justice as merit/desert relies on an *institutional* conception of desert, which Rawls happens to share. Such a view goes something like this: we cannot possibly know what we deserve until we look at the institutional arrangement of our society, and its corresponding rules.

> John Rawls, *A Theory of Justice* (Harvard, 1971), pp. 10-11.
>
> Aristotle's definition [of justice] clearly presupposes, however, an account of what properly belongs to a person, and of what is due to him. Now such entitlements are, I believe, very often derived from social institutions and the legitimate expectations to which they give rise. There is no reason to think that Aristotle would disagree with this and certainly he has a conception of social justice to account for these claims…There is no conflict with the tradition notion.

If I ask the question, how much income do I deserve to keep at the end of the year (i.e., how much is the government justified in taxing away), I am in fact asking a question about what the political institutions to which I belong actually affords me. To ask desert questions, then, apart from an established theory of justice is to put the chicken before the egg.

In the revised version of a *Theory of Justice* (1999), Rawls makes only three changes in wording (beyond the correction of typos), none of which changes his position on justice, but two of which serve to clarify his views of what we do and do not *deserve.* In what follows, I will first include the original text and then the revised wording:

> John Rawls, *A Theory of Justice* (Harvard, 1971).
>
> No one deserves his greater natural capacity nor merits a more favorable starting place in society. But it does not follow that one should eliminate these distinctions. There is another way to deal with them.

In the <u>revised</u> version of *Theory of Justice* (Harvard, 1999)*,* Rawls eliminates the last two sentences and replaces them with the following sentence: **"But, of course, there is no reason**

to ignore, much less to eliminate these distinctions."

In the second change of wording, Rawls replaces the first passage below with the second:

> John Rawls, *A Theory of Justice* (Harvard, 1971).
>
> Thus the more advantaged man cannot say that he deserves and therefore has a right to a scheme of cooperation in which he is permitted to acquire benefits in ways that do not contribute to the welfare of others."

> John Rawls, A Theory of Justice: Revised Version (Harvard, 1999).
>
> To be sure, the more advantaged have a right to their natural assets, as does everyone else; this right is covered by the first principles under the basic liberty protecting the integrity of the person. And so the more advantaged are entitled to whatever they can acquire in accordance with the rules of a fair system of social cooperation. Our problem is how this scheme, the basic structure of society, is to be designed.

Since, on Rawls's view, no individuals are inherently deserving of resources because of their economic productivity, for example, there is a presumption in favor of an equal distribution of social goods *and* a view that our talents and abilities should be regarded as a *common asset*. The changes in wording made by Rawls does not alter his views on desert, but it does reveal that he is sensitive to charges that he will not permit people who are productive in the market economy to have extra resources.

B. Justice as Entitlement

In *Anarchy, State, and Utopia* Nozick criticizes Rawls for treating our talents and abilities as a common asset, and urges that we acknowledge the self-ownership we have over our talents and our persons. Yet Nozick draws a sharp distinction between what we *deserve* and what we are *entitled to*. Nozick admits that even if a person may not deserve all of his wealth, she may nonetheless be entitled to it, for we are entitled to anything we can acquire, so long as the acquisition violates no one's entitlements in the process.

> Robert Nozick, *Anarchy, State, and Utopia* (Basicbooks, 1974), p. 226.
>
> Whether or not a people's natural assets are arbitrary from a moral point of view, they are entitled to him, and to what flows from them.

So despite Nozick's quibbles with "justice as fairness" treatment of desert, in his theory of justice as entitlement Nozick relies no more on desert than does Rawls.

C. Communitarian Justice

The most promising candidate for a political philosophy that will take seriously the concept of *desert* may be communitarianism. This is because the leading communitarian political philosopher, Michael Sandel, has fiercely attacked Rawls for holding a view of the person shorn of our vital characteristics – our values, talents, and abilities, for example:

> Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge, 1982), p. 94.
>
> [On Rawls's view] not only my character but even my values and deepest convictions are relegated as contingent, as features of my conditions rather than as constituents of my person…Only if the fate of the self is thus detached from the fate of its attributes and aims, subject as they are to the vagaries of circumstance, can its priority be preserved and its agency granted.

The punch line of the communitarian attack on Rawls comes from Daniel Bell, who thinks that *Theory of Justice* commits us to this epigram: "The person has disappeared. Only attributes remain."[82] Rawls's conception of the "person" is an anemic one, in Sandel's eyes, leaving no room for ascribing blame, praise, and virtue to others or ourselves. When Sandel discusses the concept of desert in the debate over affirmative action, however, he, too, carefully avoids any appeal to desert-claims.

Despite the fact that political philosophers have refused to appeal to the concept of desert, this has not stopped public officials from employing the concept in favor of or opposition to social legislation. In the US today there seems to be a great divide between theorizing about social justice and legislating about it, and this chapter seeks to convey that divide. In the next section we will witness how desert-claims played a role in deliberations over the Personal Responsibility Act of 1996, which, we were told, "ended welfare as we knew it."

II. Appeals to Desert in Policymaking

In the debate over social policy in the 1990's, appeals to desert were among the most numerous in discussions of public assistance to the poor, or as Americans call it, "welfare." Public officials and policy analysis often start the debate by distinguishing those who deserve public assistance and those who do not. The question of precisely who *is* "deserving" or "undeserving" typically turns on whether an individual is seen as responsible for his or her present material situation.

Often, then, appeals to desert in policymaking look something like this. To affix the title deserving poor onto someone is often to deny that she is responsible for her misfortune – that person is poor through "no fault of her own." Conversely, to label an individual among the

---

[82] Daniel Bell, *The Coming of Post-Industrial Society* (Harmondsworth, 1973), p. 419 as quoted by Sandel, p. 95.

undeserving poor is to hold her primarily responsible for her situation. It is to conclude that the person brought the situation on herself and should therefore pay for the consequences. Of course, I have not yet even suggested what it means to be responsible for one's material situation, the very notion of which may be a tangle of unsystematic intuitions.

The United States inherited the dichotomy of deservingness/undeservingness from England, a dichotomy which sprung up during debates over the 1834 Poor Law.[83] But the notion of undeservingness may have crossed the Atlantic even earlier. In 1827, the Philadelphia Board of Guardians drew a sharp distinction between "the more deserving from the abandoned and worthless."[84] Opponents of AFDC returned to that familiar dichotomy in congressional debates of 1996.

Indeed, the first major value that legislators used to justify repealing the federal entitlement to welfare was claims of desert.[85] Some people are undeserving of public assistance because their past actions are responsible for their present plight. Other people are deemed deserving precisely because their indigence is not due primarily to their poor choices. Often the appeal to desert relies upon a conception of the market as rewarding virtue and punishing vice. In a book that remains the most cited critique of any federal welfare program, Charles Murray argues that the distribution of benefits and burdens in society ought to track the moral worth of individuals.

> Charles Murray, *Losing Ground: American Social Policy*, 1950-1980 (Basic Books, 1984), p. 234.
>
> Some people are better than others. They deserve more of society's rewards…A principal function of social policy is to make sure they have the opportunity to reap those rewards. Government cannot identify the worthy, but can protect a society in which the worthy can identify themselves.

For Murray, people who are "better" are thereby deserving of greater economic rewards. Though the sense in which Murray is using "worth" here is terribly unclear, the moralism underlying his language is clear. Economies ought to reward "the worthy," and presumably, punish the less than worthy. The market should be viewed as a "triage by self-selection."[86] A federal welfare system that entitles people to assistance gives the undeserving more than their

---

[83] David Rothman, ed., *The Almshouse Experience: Collected Reports* (New York: Arno Press, 1971), p. 8. For the most comprehensive genealogy of the deserving/undeserving dichotomy, see Kirsten Fawcett and Donileen R. Loseke, "Appealing Appeals: Constructing Moral Worthiness, 1912-1917," *Sociological Quarterly* 36 (Winter 1995), pp. 61-77. Fawcett relies upon case studies from the *New York Times*' "Hundred Neediest Cases," an annual charity event for New York service providers.

[84] Loseke 65.

[85] George Sher offers to most comprehensive delving into meanings of desert in *Desert* (Princeton University Press, 1987). Also, Joel Feinberg explores the relationship between desert and justice in "Justice and Personal Desert," in *Doing and Deserving* (Princeton University Press, 1970), pp. 55-94.

[86] Murray 234.

due.[87]

Murray's intuitions seem to resemble the following principle: To each according to her moral excellence. Murray presents no reasons for his claims. He envisions an economy sifting the deserving from the undeserving people. This suggests a view of distributive justice, prevalent today, that relies upon the logic of the following syllogism.

> Thomas Pogge, *Realizing Rawls* (Cornell, 1989), p. 83.
>
> (1) John has a superior moral character.
> (2) One deserves the moral character that one has; one's moral character is a reflection of one's moral worth.
> (3) John deserves his superior moral character. (4) John is entitled to greater economic rewards.

We can attempt to systematize Murray's intuitions here and make sense of them, with the provisional assumption that sense can be made out of them. In the process of systematizing them we may very well discover their inconsistency. First, and most basically, we can question the leap from (3) to (4). Granted, some individuals are morally better people than others. Even Rawls, who dismisses the notion of pre-institutional desert in issues of justice, agrees that "[t]he concept of moral desert is not questioned."[88] A virtuous person may be more worthy of praise. It does not follow, however, that the fact that one possesses and even "deserves" one's character means that he should receive a greater income merely because of such character. In what sense, we may ask Murray, do morally better people "deserve" higher material rewards? Perhaps he would approve of a society that granted cash prizes to people who were law-abiding for five straight years. It is hard to reconcile this vision of government from Murray's argument for a much smaller federal government. For Murray's appeal to merit in the market, however, suggests that he is envisioning a market unfettered by a moralized tax code that gave write-offs to the moral saints of society, and penalties to those less than upright people.

We can find a second, and more fundamental, assumption in Murray: the unsupportable empirical claim that the most morally deserving in a market society end up on the economic top, and the least deserving land in the bottom. If desert is reducible to the moral worth of individuals, then many objections can be raised to Murray's assumption that the market rewards desert. We don't consider people who put less effort in their careers morally less worthy; they may care less for material wealth. Even the fiercest belief in a free market does not suppose its ability to sort the morally worthy from the less than worthy. Rawls makes an even stronger statement of the disconnection between one's moral worth and one's income: "Even when things happen in the best way," he thinks, "there is still no tendency for distribution

---

[87] Oddly, Murray has no philosophical objection to local equivalents of income transfer programs. This, of course, undermines his arguments in the name of merit and market selection.

[88] John Rawls, "Justice as Fairness: A Briefer Restatement," p. 54.

and virtue to coincide."[89]

Rawls's theory of justice as fairness supplies three further objections to Murray. The first two answers grant Murray's own grounding assumption that the market ought to reward the deserving; the third challenges that very assumption. Rawls begins by admitting that there is *something* commonsensical about the claim that "income and wealth, and the good things in life generally, should be distributed according to moral desert."[90] We like to see people who do good things get rewards, at the very least. Perhaps these rough and rugged intuitions hark back to the incentive and punishment system of the pre-school playground, or the elementary school behavior grades.

Let us turn to the first Rawlsian response. Murray makes the assumption that we deserve our natural traits or initial life circumstances, the formation of which is entirely out of our control. Rawls thinks that it is a truism that "[n]o one deserves his greater natural capacity nor merits a more favorable starting place in society."[91] As Thomas Nagel notes, any attempt to refute this claim must appeal to something like the theory of the transmigration of souls.[92] How can we possibly deserve something that we had absolutely nothing to do with? Perhaps Murray thinks that natural traits or background are deserved in some sense, and that it is just of individuals to command the full market potential of such traits. Rawls would return with some rhetorical questions:

> John Rawls, "Justice as Fairness: A Briefer Restatement," (unpublished manuscript), p. 55
>
> Do people really think that they (morally) deserved to be born natively more gifted than others? … Do they think that they deserved to be born into a wealthier rather than into a poorer family?

This response allows a Rawlsian to debate Murray on his own terms. *Even if* the market ought to reward people according to their moral desert, Rawls can insist, Murray's proposal of unfettered capitalism would quite obviously fail to live up to his own prescription for the market.

Second, Rawls pushes the notion of desert further, wondering if even our effort and character can be in some full sense "deserved." I wish to suggest that Rawls has two positions on the link between one's desert and effort. On the *strong reading*, it is not even coherent to speak of deserving one's ability to make an effort. Rawls famously writes:

---

[89] *TJ* 314.
[90] *TJ* 310.
[91] *TJ* 102.
[92] Thomas Nagel, "Justice and Nature," *Oxford Journal of Legal Studies* (Vol. 17, Summer 1997), p. 309.

> John Rawls, *A Theory of Justice* (Harvard, 1971), p. 104.
>
> Perhaps some will think that the person with greater natural endowments deserves those assets and the superior character that makes their development possible. Because he is more worthy in this sense, he deserves the greater advantages that he could achieve with them. This view, however, is surely incorrect. It seems to be one of the fixed points of our considered judgments that no one deserves his place in the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that a man deserves the superior character that enables his to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit. The notion of desert seems not to apply to these cases.

Rawls here suggests that inequalities among people, in their work ethic, character, and talents, are so powerfully influenced by external circumstances that none of them *per se* should influence the distribution procedures of society. This statement is often read as merely making an epistemic claim: that we can never *really* know if our effort is due to our genuine choices or our fortunate environment. I think, though, Rawls is making an even stronger claim here. The suggestion is that one can never be genuinely deserving of anything, in the strong sense of the word in which Rawls is employing it.[93]

> Thomas Pogge, *Realizing Rawls* (Cornell, 1991), pp. 79-81.
>
> According to Rawls, for one to deserve something entails that it is proper that one have it. But it means more. Desert, for Rawls, is *moral deservingness*, a reflection of one's moral worth in virtue of which alone one can deserve anything. This may not be the ordinary sense of the term. Rawls suggests as much when he occasionally speaks more fully of *moral* desert and, once, when he has the broader sense in mind, talks of people being 'deserving in the ordinary sense.' (74) It follows that many things deserved in the ordinary sense are no Deserved by Rawls's…Persons who put scant effort into their careers, perhaps because they care little for material wealth or prefer to concentrate their energies upon other projects, are not for this reason morally less worthy.

> John Rawls, *A Theory of Justice* (Harvard, 1971), p. 104.
>
> A just scheme…answers to what men [and women] are entitled to; it satisfies their legitimate expectations as founded upon social institutions. But what they are entitled to is not proportional to nor dependent on their intrinsic worth. The

---

[93] On Rawls's view, *moral* desert is "the moral worth of a person's character *as a whole* (and of a person's several virtues) as given by a comprehensive moral doctrine; and the moral worth of particular actions" (Rawls, "Justice as Fairness: A Briefer Restatement," p. 54).

> principles of justice that regulate the basic structure and specify the duties and obligations of individuals do not mention moral desert, and there is no tendency for distributive shares to correspond to it.

Now that justice as fairness has completely divorced itself from any appeal to desert, what is left to say? First, rewarding one's great capacity to make an effort may be *instrumentally,* though no intrinsically, justified for Rawls if it benefits those most disadvantaged in society. And second, we need not read Rawls as denying that we can with good conscience "claim credit" for their perseverance and initiative, even if our work ethic is largely the product of "fortunate family and social circumstances" for which we cannot claim credit. This claim turns on how we interpret what claiming credit entails. If it merely means considering one's work ethics "one's own," then Rawls would raise no objection. If, on the other hand, one's claiming credit has built into it a demand for a corresponding economic reward, only then is Rawls objecting to such a view.[94]

Yet there is another, *weaker reading* of the connection between desert and effort that Rawls has more recently endorsed.[95] Even if some people are more or less deserving than others, and even if one's own comprehensive doctrine argues for a society that rewarded desert, a state simply could not and/or ought not to act upon such a doctrine. Sometimes a desert-rewarding state seems to be an impossibility for Rawls, while at other times it appears intolerably intrusive. Rawls phrases his second version desert/effort link as if he was restating his last:

> John Rawls, *A Theory of Justice* (Harvard, 1971), p. 312.
>
> Once again, however, it seems clear that the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune. *The idea of rewarding desert is impracticable*.[96]

> John Rawls, *A Theory of Justice* (Harvard, 1971), p. 323.
>
> The effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to

---

[94] See T.M. Scanlon, "The Significance of Choice," *Tanner Lectures on Human Values* 1989, p. 187.

[95] In "Justice as Fairness: A Briefer Restatement," Rawls does not suggest that this weaker reading is a departure from his previous statements on desert. Samuel Scheffler views this as a "significant departure" from statements in *A Theory of Justice*. I have suggested here, however, that both readings of desert are present in *Theory* itself. The passage Scheffler cites (pp. 312-313) supports his claim. Yet the passage on page 104 suggests the more recent claims of practicability and workability.

[96] *TJ* 312.

> discount for their greater good fortune. The idea of rewarding desert is impracticable.

Here Rawls's claim seems more modest than in the first desert passage above. He may be making a purely pragmatic argument. The information-gathering arms of government cannot possibly distinguish between those who are genuinely responsible for their present material condition and those who are merely lucky. Appeals to desert in political argument are as unworkable as they are controversial. Alternatively, Rawls may be suggesting that, though there may be an answer to who is truly deserving and who is not, such a judgment can only be made from a position of omniscience: "We might say: Only God could make *those* judgments."[97]

We should take note that none of these readings are mutually exclusive. Each can be seen as a backup response to Murray and other proponents of a moral meritocracy if the other arguments fail. Even if some people are more deserving than others, such necessary knowledge for making a distinction is only possessed by God. And even if humans could hold sufficient knowledge, the information demands of determining desert may be too overwhelming. Even if we were committed to making the investment in gathering the requisite information, such judgments would be too controversial for a political conception of justice. Murray's proposal of rewarding people according to their moral worth, Rawls could conclude, is an unworkable political principle for a just state. If Murray were to carry his logic where it leads, the government would be given frightening power to correct market imperfections, assuring that those who succeeded in the economic system *really were* the deserving among us.

Appeals to desert, Rawls urges, must come only after institutions have specified who is due what and for which precise reasons. What people deserve is determined by the fair procedures of just institutions. On this view, the concept of desert has no pre-institutional role in shaping fair institutions. To design a society so that people will get "what they deserve" is to get things very backwards, Rawls would say. We did not create baseball to make it so that batters would strike out after missing three pitches; nor did we create universities "so that professors could have somewhere to turn in their grades."[98] When we ask what people deserve, we really should be asking what a just government would rightfully provide them. So the Rawlsian line goes.

III. Conclusion

In this chapter, we have seen the distinctness of desert-claims from rights-claims, the importance of the concept of desert in theory-building, particularly by the ancient political philosophers, and the general disregard for the concept by contemporary political philosophers.[99] Today desert remains an important notion in everyday views about social and

---

[97] John Rawls, "Justice as Fairness: A Briefer Restatement," p. 54.

[98] Samuel Scheffler, "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics," *Philosophy and Public Affairs* (Winter, 1994), pp. 306.

[99] See Will Kymlicka, *Contemporary Political Philosophy* (Oxford, 1991), for a detailed discussion of responsibility and desert-claims in twentieth century conceptions of justice.

legal justice, and it is hard to imagine a policy winning popular support if its justification relied on the claim that desert is an irrelevant or even incoherent concept.[100] Finally, we witnessed how the concept of desert played a role in welfare reform of 1996, arguably the most important social legislation of the latter half of the twentieth century, and the sorts of responses an egalitarian might make to the justification of ending the federal entitlement to poor Americans.

You may find yourself disagreeing (perhaps viscerally) with Rawls's bold assertion that much of what you take credit for – your talents and abilities, your work ethic, even much of your moral character – should have nothing to do with your future income. Indeed, his analysis of moral desert in *Theory of Justice* calls into question whether we can justifiably take credit for most of our everyday actions, given the powerful influence of our environment and genes on our choices.[101]

By juxtaposing the two ends of the spectrum when it comes to desert and distributive justice, however, I hope to have sharpened the debate between those who deny the value of desert in distributive justice altogether (Rawls), and those who reduce distributive justice to claims of desert (Murray). These two admittedly strong views, however, are not the only two positions we can stake out in this debate. There are plausible positions in between Rawls and Murray which acknowledge the extent to which we are the products of our environment, while also making room for the fact that we do make choices, for which we deserve praise and blame, reward and punishment.

---

[100] See David Miller, *Principles of Social Justice* (Harvard, 1999), p. 131.

[101] See Samuel Scheffler, "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Politics," *Philosophy and Public Affairs* (Winter, 1994).

Justice as Fairness? A Feminist Critique

By Eric Beerbohm

This article tracks the debate initiated by Susan Okin's feminist critique of Rawlsian procedures and outcomes. Specifically, she argues that the Original Position fails to adequately account for the experiences of women, mainly in the private sphere, and that consequently the principles of justice Rawls derives are inadequate.

Many contemporary theories of distributive justice[102] look with great suspicion upon the systematic, differential allocation of resources that reflect traits outside of our control – e.g., gender, ethnicity, and the economic class into which we were born. In John Rawls's theory of justice as fairness, for instance, we are to presume that the essential "stuff" that people need to live - tangible goods like income and intangibles like self-respect – are distributed equally *unless an unequal distribution would work to everyone's advantage*. To put it simply: Just as in a court of law we are presumed innocent until proven guilty, in a just society we are presumed to hold equal primary goods unless our holding more goods would actually benefit the poorest members of society. In this sense, a society of free and equal people is one in which people share each other's fate. No one is left behind because of poor luck or an upbringing in abject poverty.[103]

If you were asked to look for the greatest inequalities of today, you would have a field day. You could, for example, cite evidence on the egregious discrimination against women worldwide. In the article, "More than 100 Million Women are Missing,"[104] economist-philosopher Amartya Sen argued that discrimination in the delivery of health care and nutritional foods accounts for the one hundred million women who should be alive today, as predicted by analysis of global male/female population ratios, but who have prematurely died. An Amnesty International report helps explain Sen's troubling claim:

> Amnesty International, "Humans Rights are Women's Right," *Amnesty International Publications*, 1995.[105]
>
> Discrimination is a deadly disease. More women and girl-children die each day from various forms of gender-based discrimination and violence than from any other type of human rights abuse. Every year, according to the UN Children's

---

[102] Distributive justice, as used here, describes the way in which benefits and burdens are allocated in society.

[103] For fieldwork on the effects of child poverty on future life chances, see Jonathan Kozol, *Savage Inequalities: Children in America's Schools* (Harperperrenial Library, reprinted 1992) and *Amazing Grace: The Lives of Children and the Conscience of a Nation (*Harperperrenial Library, 1996).

[104] See Amartya Sen, "More than One Hundred Million Women Are Missing," *New York Review of Books,* 20 December 1990.

[105] 71 See *Amnesty International Report*, "Human Rights are Women's Rights," 1995 on-line at http://www.amnesty.org/ailib/intcam/women/womeneng.txt

Fund (UNICEF), more than a million infant girls die because they are born female. Every year, because of discrimination, millions of women are mutilated, battered to death, burned alive, stripped of their legal rights, and bought and sold in an unacknowledged but international trade in slaves for domestic or sexual purposes.

Whether we look at violations of the human rights around the globe or the economic standing of working women in the United States, who earn on average 71 percent of the earnings of working men, it seems fairly easy to identify gender injustices that persist today.[106] Yet there is another cluster of social inequalities between men and women that is as acute as it is close to home: the unequal division of labor and unjust power relations within families.

In this chapter we will map the ongoing debate between political theorist Susan Moller Okin and John Rawls on the appropriate role of gender and the family in a theory of justice. For a Lincoln- Douglas debater, close scrutiny of this debate has at least three benefits. First, this ten-year debate is value argumentation at its finest. Both sides are interested in sympathetically understanding and substantively responding to each other's arguments. Second, the range of arguments made by Okin to support her feminist reading of *A Theory of Justice* can be extended beyond the debate over the family. Any topic that touches on fair treatment by the state, within or beyond borders, can benefit from Okin's critique and feminist reading of Rawls. Third, the debate continues today, and you may be able to help advance it.[107]

I. Okin's Case Against Rawls: Giving Gender its Due

Contemporary feminism is motivated by an opposition to the subordination of women in public and private life. Indeed, a central project of many feminist theorists is to break down the very distinction between the "public" world of politics and the "private" world of family life.[108] Carole Pateman argues that the dichotomy between the public and private (or public/domestic) "is, ultimately, what the feminist movement is about."[109] Why is this distinction so problematic from a feminist perspective? The distinction is often cited to ignore "private" inequalities and oppression on the grounds that they are not within the scope of justice.

The purpose of Okin's campaign against Rawls's theory of justice is to expand the scope of social justice, giving gender and the family a fundamental role in reasoning about justice. This will not just transform *how* we think about justice, Okin thinks, but *what* justice demands from us. We can divide up her arguments into critical and constructive types:

---

[106] See Susan Moller Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), p. 3.
[107] See Rawls most recent response to Okin in John Rawls, *The Law of Peoples* (Harvard, 1999), in the chapter on "Public Reason."
[108] Susan Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), pp. 110-111.
[109] For a survey of feminist opposition to this dichotomy, see Carole Pateman, "Feminist Critiques of the Public/Private Dichotomy" in *Private and Public in Social Life*, ed. by Stanley Benn and Gerald Gaus (London, 1983).

1) **Critical arguments:** Justice as fairness, as spelled out in *A Theory of Justice*, neglects gender and the family.

2) **Constructive arguments:** Justice as fairness, if its principles are applied *consistently* and *wholeheartedly*, can serve as a powerful tool for arguing on behalf of gender equality and the family as a "school of justice."

Arguments of the first type challenge Rawls's arguments on behalf justice as fairness. These critical arguments can be further divided up into *internal* and *external* criticisms. On one hand, an internal criticism claims that an opposing position is either inconsistent (its claims conflict in some demonstrable way) or that it fails to draw the right conclusions from its stated premises. On the other hand, an external criticism typically argues that something in the opposing position, a particular value claim or argument, is missing, or has not been properly taken into account. It is usually conjoined with the claim that the missing value claim or argument cannot be tacked on as a "friendly amendment,"[110] but rather makes the position hopelessly unacceptable. Here is what the general form of Okin's internal and external critiques of Rawls looks like:

1) **Internal Criticisms**: To uphold values built into justice as fairness, e.g. fairness and respecting individuals as free and equal, Rawls must take seriously considerations of gender and the role of the family in social justice.

2) **External Criticisms**: Justice as fairness appeals to fairness at the expense of values such as compassion and sympathy, which need to be accounted for in an acceptable theory of justice.

By and large Okin's criticisms of Rawls are <u>internal</u> criticism of justice as fairness, for they note inconsistencies within his argument for social justice. In Lincoln-Douglas debate, internal criticisms can be powerful because they begin with your opponent's premises, and demonstrate that they lead to conclusions consistent with or even demanded by *your* position. It's a good habit, then, to first ask yourself how many of your opponent's foundational arguments, or premises, can be accepted and then be used to endorse a position contrary to theirs, and akin to yours.

Okin's arguments, however, are just as constructive as they are critical. She employs the moral method behind justice as fairness, the original position in which parities deliberate behind a veil of ignorance, to argue against pervasive gender inequalities in both public and domestic spheres.

---

[110] A "friendly amendment" is an argument which adds something to, remedies a small problem with, or clarifies a position.

> Susan Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), pp. 108-109.
>
> I have argued that the feminist *potential* of Rawls's method of thinking and his conclusions is considerable. The original position, with the veil of ignorance hiding from its participants their sex as well as their other particular characteristics, talents, circumstances, and aims, is a powerful concept for challenging the gender structure. Once we dispense with the traditional liberal assumptions about public versus domestic, political versus nonpolitical spheres of life, we can use Rawls's theory as a tool with which to think about how to achieve justice between the sexes both within the family and in society at large.

Now that we have an overview of the structure of Okin's position, it's worth scrutinizing the target of her arguments: Justice as fairness as Rawls interprets it.

II. Rawls's First Affirmative Constructive

The preeminent political value of justice becomes clear only with the presentation of the criterion of a fair decision procedure for adjudicating competing claims. Rawls's first major contention will spell out this fair decision procedure, as modeled by the original position. His second contention will then argue for two substantive principles that follow from this procedure.

First we can make an observation about the scope of justice. Rawls contends that the first subject of justice should be the basic structure of society. The basic structure entails the way in which the "major social institutions … assign fundamental rights and duties and shape the division of advantages that arise through social cooperation."[111] The basic structure is a set of ground rules that distribute the benefits and burdens of society, not the individual moves in accordance to such rules.[112]

Rawls's singular attention to *structural injustice* marks the "coming of age of liberal political philosophy."[113] Only after we view the major institutions of society as a collective scheme, can we see the pervasiveness and profoundness of their effects on our life chances, to wit, "what [we] can expect and how well [we] can hope to do."[114] Designating the basic structure as the proper site of justice acknowledges the fact that social institutions systematically privilege the prospects of some individuals while undermining the chances of others.

For a Rawlsian, life is not unfair. The state is or, at least can be, deemed unfair in light of how it responds to natural and social inequalities. Social injustice, then, includes not merely taking

---

[111] John Rawls, *Political Liberalism*, p. 258. Hereafter *PL*.
[112] The clearest *ground rule conception* of the basic structure in *Theory* is on page 86.
[113] Brian Barry, *Justice as Impartiality* (Oxford, 1995), p. 214. See also Thomas Pogge, *Realizing Rawls* (Cornell, 1989), pp. 8-9.
[114] *Theory* 7.

certain action, such as enforcing Jim Crow laws, but also refusing to interfere with a system that permits unjustified inequalities, such as one out of four children growing up in poverty. Every inequality among individuals stands in need of justification by the state for it is precisely the ground rules of society which are the tools that sanction such inequality. A government that tolerates an unjustified inequality is, in effect, playing favorites with its members without good reason.

Rawls's defense of justice as fairness can be neatly divided into two distinct, but interdependent, contentions:

> **Contention 1**: The original position models the way we reason about justice, for it accurately accounts for our considered judgments about fairness.

> **Contention 2**: Social justice entails two "lexical" principles: first, that we assure everyone a package of basic liberties; and second, (a) that we guarantee everyone fair equality of opportunity and (b) that we only permit those inequalities that work to everyone's benefit.[115]

The first contention outlines a *constructivist* procedure for selecting principles of justice, marked by the allegedly weak assumptions about fairness and carried out by the device of the original position. The second contention lays out two *substantive* principles that constitute the requirements of social justice.

A natural question to ask is whether (1) is "rigged" to produce (2)? To this Rawls may answer yes *and* no. *Yes*, the procedure does lead to egalitarian principles of justice, and it is intended to. This is not just fortuitous for Rawls. However, *no*, the procedure is not rigged in a deceptive way. Rawls is claiming that there is nothing foreign about the method of reasoning when someone pulls a "veil of ignorance" over their heads. When we say that a judge decided a care "fairly" or we deem an umpire to have made a "fair call," we are simply saying that they did not let their own biases and limited perspective cloud their judgment. The original position is nothing more than a more formal *thought experiment* that is intended to line up with the considered judgments we already have about what makes a particular decision fair.

Though the two parts of Rawls's argument above are crucially connected – the principles of justice we see in (2) follow from (1) – they are also separable in two ways. *First*, it is possible for someone to accept Rawls's procedure for reasoning about justice, but offer reasons why the substantive principles do not follow from the procedure. In such a case, a person who imagines herself in the original position may come up with another set of principles of justice, for instance, that assure equality of opportunity but not that difference principle. *Second,* there is

---

[115] Rawls's justice as fairness can also be laid out in several different ways. I can imagine a case that made his device of the original position solely the criterion for justice, and then made the two substantive principles of justice contentions one and two. I have chosen the above structure to emphasis the relationship between contentions one and two.

the potential for someone to disagree with the assumptions needed to get Rawls's procedure off the ground, but to accept Rawls's substantive principles for reasons independent of part (1).

III. Okin's First Negative Rebuttal

Okin also begins with an observation about the scope of social justice:

> Susan Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), pp. 108-109 (*Italics added*).
>
> Let me here point out that Rawls, for good reason, states as the outset of his theory that the family *is* part of the subject matter of a theory of social justice … Rawls specified "the monogamous family" as an example of such major social institutions, together with the political constitution, the legal protection of essential freedoms, competitive markets, and private property … It would scarcely be possible to deny that different family structures, and different distributions of rights and duties within families, affect men's "life prospects, which they can expect to be and how well they can hope to do," and even more difficult to deny their effects on the life prospects of women … *However, the family is to a large extent ignored, though assumed, in the rest of the theory.*

Okin's strategy is to accept both the value of social justice as the overriding political value and the decision procedure of the original position. While some feminist political theorists have attacked the concept of justice as a hopelessly masculine value, Okin accepts justice and its attention to fairness as a tool to fight the subordination of women in society.[116]

> **Contention 1:** By making heads of families the parties in the original position, rather than individuals, Rawls fails to apply his principles of justice to the family. This has the following implications for women's rights:
>
> • Wives, Okin thinks, go without a vote in the original position (*Justice, Gender, and the Family* p. 94).
>
> • Because a larger percentage of women's labor is unpaid, it is not acknowledged as labor in the original position (p. 95).
>
> • When discussing the moral development of citizens in a just society, Rawls merely assumes that families are just (p. 97).
>
> • While Rawls acknowledges the important in families in the moral development of children, he overlooks the fact that families are crucially *schools*

---

[116] Okin considers whether men and women reason differently about justice in Okin, Susan Moller, *Reason and feeling in thinking about justice. (Symposium on Feminism and Political Theory)* Ethics v99, n2 (Jan, 1989):229-249.

of justice. A family with an unjust division of domestic labor will school future citizens in the unequal treatment and status of women.

To argue for this contention, Okin draws upon work in sociology as well as philosophy. John Stuart Mill, the first great feminist philosopher, provides Okin with analysis on the pervasive effects of inequality. "Private" inequalities, he argues persuasively, spill over into public disparities of goods and power. If marriage became a relationship of equals, Mill concludes, the family would be transformed from "a school of despotism" to a "school of moral cultivation."[117]

Because the family is part of the basic structure, Okin claims, it must be governed by the principles of justice as fairness. This does not necessarily mean, however, that the state would monitor the domestic labor of households to assure equality. Such social policy might simply be too intrusive. Okin's point is to challenge our ideal of justice. It would not be enough for a society to distributive goods in such a way that assured that the poorest families are as well off as possible. If a society unfairly distributes resources and power across gender lines or within family structures, we should not call it just, and it citizens have an obligation to work to make it ideally just, even if the government is unable to remedy such injustices.

Now, then, we have arrived at the central point of disagreement between Okin and Rawls. Rawls must call a society just if, on paper, it is meeting the two principles of justice, however much its families remain bastions of unequal labor and power. Okin, on the other hand, refuses to call such a society just. Rather, she thinks that forms of subordination within the family distort gender relations in politics and the market as well. Now we see how Okin's work is consistent with feminism's claim that "the personal is political." Even if the law cannot legally bind families to distribute domestic labor within the household equally (because such a law may be intolerably intrusive, for example), choices that people make that are not regulated by law should still fall under the purview of justice.[118] The "peculiar distinction" between the public and private simply serves to hide glaring inequalities with profoundly public consequences.

> **Contention 2:** If applied consistently to the family structure, justice as fairness can serve as a powerful tool for feminist criticism.

Susan Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), p. 101.

If, however, we read Rawls in such a way as to take seriously both the notion that those behind the veil of ignorance do not know what sexy they are and the requirement that the family and the gender system, as basic social institutions, are to be subject to scrutiny, constructive feminist criticism of these contemporary institutions follows.

---

[117] John Stuart Mill, *The Subjugation of Women* (1869) in *Collected Words*, ed. by J. Robson (Toronto, 1984), p. 969.
[118] For an extension of this slogan into choices made by individuals in the market, see G.A. Cohen, "Where the Action Is: On the Site of Distributive Justice," *Philosophy and Public Affairs* (Winter, 1997), pp. 4-5.

A) The basic political liberties would guarantee women "the important liberty of free choice of occupation."[119] Family responsibilities, like choice of one's occupation, must be assigned in ways that does not promote the economic dependence of women on men.

B) The principle of fair equality of opportunity would guarantee women fair representation in the political process. Representative of society, Rawls argues, must be "drawn more or less equally from all sectors of society."[120] Rawls is referring here of the ability of people from all incomes to have a reasonable chance to attain political office, but his analysis can be applied just as equally to the fair representation of women in political office.

C) Finally, the emphasis that justice as fairness places on the most important primary good of the "social basis for self-respect" would assure that both women and men are not vulnerable to coercion in the marketplace, and that girls and boys are raised in families that cultivate self-esteem by equal treatment.

Susan Okin, *Justice, Gender, and the Family* (Basicbooks, 1989), pp. 104-105

In the interest of this primary value [of self-respect], if those in the original position did not know whether they were to be men or women, they would surely be concerned to establish a thoroughgoing social and economic equality between the sexes that would protect either sex from the need to pander or servilely provide for the pleasure of the other. They would emphasize of girls' and boys' growing up with an equal sense of respect for themselves and equal expectation of self-definition and development.

IV. Rawls's Rebuttal

Rawls grants Okin's observation that "the family is part of the basic structure," on the grounds that "one of its main roles is to be the basis of the orderly production and reproduction of society and its cultures from one generation to another."[121] Yet Rawls is quick to distinguish this claim from the stronger one that the principles of justice are to apply wholeheartedly to the internal life of the family. He asserts that:

---

[119] John Rawls, *A Theory of Justice* (Harvard, 1971), p. 274.
[120] *ibid.* 228.
[121] John Rawls, *Collected Works* (Harvard, 1999), p. 595.

> John Rawls, "The Idea of Public Reason Revisited," *Collected Works* (Harvard,
> 1999), p. 596.
>
> The principles of political justice are to apply directly to this structure [the basic
> structure], but are not to apply directly to the internal life of the many
> associations within it, the family among them. Thus, some may think that if those
> principles do not apply directly to the internal life of families, they cannot ensure
> equal justice for wives along with their husbands.

No argument has yet been made for this claim. Indeed, it seems peculiar that Rawls can consistently assert *both* that the family is part of the basic structure and that its "inner life" is not subject to the principles of justice. The obvious question to ask is: What does it mean for the family to be part of the basic structure and yet not governed by the principles of justice?

We can begin to understand Rawls's difficult position by his comparison between the family and other "associations," including churches, colleges, and labor unions. Rawls thinks that "the family is not peculiar in this respect."[122] Here is his argument by analogy:

> John Rawls, "The Idea of Public Reason Revisited," *Collected Works* (Harvard,
> 1999), pp. 596-597.
>
> To illustrate: It is clear that the liberal principles of political justice do not require
> ecclesiastical governance [church governance] to be democratic. Bishops and
> cardinals need not be elected; nor need the benefits attached to a church's
> hierarchy of offices satisfy a specified distributive principle, certainly not the
> difference principle. This shows how the principles of political justice do not
> apply to the internal life of a church nor is it desirable, or consistent with liberty
> of conscience or freedom of association, that they should.

Rawls's suggestion here is that just as we wouldn't want the state to interfere with various churches, so too we wouldn't want it to get in the business of regulating family life.

Okin has two responses to make here. *First*, Okin can argue that Rawls conflates[123] what justice is from what the state can justly do. Okin has already made the crucial distinction between (1) what an ideal society would look like and (2) what the state can reasonably do to make a society just. She can agree with Rawls that a state that tapped phones and bugged houses in order to assure that the husband was doing as much domestic labor as the wife would be unjust. Her argument, which still stands, is that we should not *call* a society just if it continues to countenance unequal resources and power within families. What the government should do about such injustice in the family is another, further question.

---

[122] *ibid.* 596.
[123] To conflate is the fail to distinguish between two distinct concepts. Brunch is the *conflation* of breakfast and lunch.

Second, Okin can refer to a *preemption* built in her own case, in which she distinguishes between the family and other "private associations."

> Susan Moller Okin, "Justice and Gender," *Philosophy and Public Affairs* (Spring, 1986), p. 45.
>
> The family is not a private association like a church or university, which vary considerable in type, and which one can join and leave voluntarily. For although one has some choice (albeit highly constrained) about marrying into a gender-structured family, on has no choice at all about being born into one. Given this, Rawls's failure to subject the structure of the family to his principles of justice is particularly serious in the light of his belief that a theory of justice must take account of "how [individuals] get to be what they are" and "cannot take their final aims and interests, their attitudes to themselves and their life, as given."

Rawls's analogy between the family and churches fails because of the crucial differences between the family, to which we are born without choice, and churches, which are private organizations whose members can choose to join and to leave.[124]

Rawls makes a second argument against the Okin proposal. He claims that "we wouldn't want political principles of justice, including principles of distributive justice, to apply directly to the internal life of the family."[125] Rawls's point is that the public principles of justice are not designed to regulate the family and would thus do a poor job at such a task:

> John Rawls, "The Idea of Public Reason Revisited," *Collected Works* (Harvard, 1999), pp. 598.
>
> These principles [of justice] do not inform us how to raise our children, and we are not required to treat our children in accordance with political principles. Here those principles are out of place … Clearly the prohibition of abuse and neglect of children, and much else, will, as constraints, be a vital part of family law. But at some point society has to rely on the natural affection and goodwill of the mature family members.

This claim may amount to a *straw man* argument, which misrepresents an opponent's position in an unsympathetic light (perhaps accidentally), and then easily knocks it down. Surely Okin is not claiming that parents can use the principles of justice as fairness to raise their children. Political principles like the fair value of political liberty should not, it can be granted, be used to determine how to discipline and rear one's children.

---

[124] See the discussion of "exit rights" in chapter, "The Value of Autonomy."

[125] John Rawls, *Collected Works* (Harvard, 1999), p. 598.

Let's take a more careful look at what work Okin thinks that the principles of justice should be doing in family life. Recall that she argued that the political principles of justice, properly conceived of for evaluating the institution of the family, would call for the equal treatment of children. This is relevant in light of the fact that countries around the world systematically educate their boys better than their girls. Principles of justice would rule out this practice. So, too, justice as fairness would call for a just division of labor in the household. Rawls's rebuttal, then, that the feminist reading of justice does not provide us with appropriate principles "how to raise our children," seems to ring hollow.

> Martha Nussbaum, *Sex and Social Justice* (Oxford, 1999), p. 388.
>
> There remains a difference between Rawls and Okin, in that Okin holds, it seems, that the internal workings of the family should be governed by principles of justice, whereas Rawls envisages the principles of justice operating as external constraints on what families may choose but not as governing its internal workings. Where adult women are concerned, the difference may not be great. Rawls agrees with Okin, for example, that equal citizenship for women requires compensation, in the event of divorce, for investments a woman has made in the marriage and also public attention to child care. Differences are likely to be greater in the requirements concerning children, though, because Rawls has not addressed the specifics of this issue, the extent of the differences remain unknown.

V.   Conclusion

The state of the debate over justice in the family, then, is as of yet unresolved.[126] As I have made clear in this chapter, I think Okin's criticisms of the treatment of the family in *Theory of Justice* have not yet been met with satisfactory replies. An essential goal of theorizing about justice is that it "points to the overall direction of political action."[127] Okin's attempt to harness the theoretical power justice as fairness to challenge political and family institutions is an excellent model for both criticizing and amending a theory to make it more of an *action-guiding* tool.

> Peter Singer, *Practical Ethics* (Cambridge, 1993), pp. 2-3.
>
> Ethics is not an ideal system that is noble in theory but no good in practice. The reverse of this is closer to the truth, an ethical judgment that is no good in practice must suffer from a theoretical defect as well, for the whole point of ethical judgments is to guide practice.

---

[126] A more complete from Rawls is expected in John Rawls, *The Law of Peoples* (Harvard, 1999), forthcoming.
[127] Rawls, *Political Liberalism*, p. 285.

It's worth concluding with a better understanding of how political and market inequalities might be connected to disparities in the home.

> Thomas Nagel, "Justice and Nature," *Oxford Journal of Legal Studies* Vol. 17, No. 2 (Summer, 1997), pp. 303-321.
>
> Justice plausibly requires that hereditary socio-economic class not be allowed to impose big differences in life chances on persons of similar natural ability. Should it not also rule out the imposition of big differences in the life chances of men and women of similar natural ability – regarding this as unjust at whatever socio-economic level it occurs?
>
> I believe the answer is yes, and that this answer is consistent with the exclusion of naturally caused inequalities from the domain of injustice. The reason is that the role of social institutions in generating inequality between the sexes is too deep … [M]ost differences in employment and economic opportunities for women are parasitic on a more fundamental social fact, the sexual division of labor, and not on the direct interaction between biological sexuality and the nonsexual labor market. Social institutions do not in this case merely create a dimension of variation in occupational roles that then interacts with natural differences between men and women to produce different results, on average. Rather, the labor market interacts with the *status* difference between men and women. The causes of inequality are social all the way down.

Nagel helps explain Okin's *family as lynchpin* thesis, which asserts that gender-structured social arrangements across society are crucially sustained by a gender-structured family.[128] Justice demands minimizing the influence of gender on opportunities, resources, and self-respect. Present social arrangements are unjust because they systematically work against the life chances of women in the marketplace and political life. The *family as lynchpin* thesis assigns primary responsibility for this structural injustice on the unequal division of domestic labor and unequal treatment of children within families.[129]

The feminist vision of social justice can be seen as endorsing three fundamental values in family life. First, the institution of the family will honor the value of liberty, where the life plans, projects, and choices of husbands and wives have equal standing. Second, the family will be structured in accordance with the value of equality, thus expanding opportunities for women across all walks of life. And third, families will realize their role as "schools of justice," training their children to reason and act justly as future citizens, parents, and perhaps even leaders.

---

[128] See Joshua Cohen, "Okin of Justice, Gender, and Family," in *Canadian Journal of Philosophy* (Volume 22, No. 2, June 1992), pp. 263-264.

[129] Opponents of this thesis, including Sylvia Walby, Heidi Hartmann, and Barbara Burgeon have argued that discrimination in labor markets is essential to understanding the connection between opportunities and gender.

Important works of political philosophy often contribute less by the arguments that they give than by the questions they ask and the power of their convictions about the correct answers to them. The great strength of *Justice, Gender, and the Family* lies here: in its sharp challenge to the complacency about issues of gender and the family characteristic of contemporary theories of justice and in its outline of an egalitarian perspective on the address of those issues. Political philosophy should not be the same.

Egalitarianism and Social Equality

By Eric Beerbohm

This article first describes five normative bases for condemning various types of inequality. Next it articulates five criticisms of egalitarianism. The article concludes with a Rawlsian perspective on social inequality.

All modern political philosophers agree that society must treat its citizens equally in some respect.[130] That we should be equal before the law and have basic voting rights is no longer an area of serious contention in the philosophical literature. The site of political philosophers' disagreements now revolves around questions of distributive justice: To what extent should the principles of equality be extended to our economic relations?[131] Theories of justice need to provide us with theoretical "guidance where guidance is due,"[132] and on questions of social and economic equality, we are particularly confused in our intuitions.

The most straightforward way in which this debate manifests itself is in the unending argument between *egalitarians* and *libertarians*. Lincoln-Douglas debaters are more likely to recognize this debate as one between John Rawls and Robert Nozick over social justice. Here I want to broaden the debate between these two undeniably important players in political philosophy.

On one hand, libertarians endorse a minimal state which only collects taxes to protect individuals from a range of "Lockean" rights. Beyond protection from direct harm, the government may not interfere with voluntary market activity of consenting adults. Egalitarians, on the other hand, are willing to employ the state to mitigate substantial inequalities.

Liberty and equality are values importantly at play in the debate between libertarians and egalitarians. Untrammeled free markets will lead to persistent inequalities in whatever metric we choose, whether wealth, opportunities, well-being, or the meeting of basic needs. Attempts to remedy these inequalities will restrict the ability of people to do with their property whatever they choose. However, it is far too simple to say that libertarians care about liberty at the expense of equality and vice versa for the egalitarians. Rather, their disagreement lies in what the proper balance between these values should be.

In this chapter I will not rehearse in detail the argument of *A Theory of Justice*,[133] as there are

---

[130] In this very limited sense then, we are all egalitarians, for we value the state's equal treatment of its citizens before the law and in citizenship. I will make clear how a more narrow use of the term can clarify a central debate in political philosophy between egalitarians and libertarians.

[131] Thomas Nagel, *Equality and Partiality* (Oxford, 1991), p. 63.

[132] John Rawls, *A Theory of Justice* (Harvard, 1971), p. 214. Joshua Cohen picks up upon Rawls's phrase in "Democratic Equality," *Ethics* 99 (1989).

[133] See John Rawls's revised *Theory of Justice* (Harvard, 1999), *Collected Papers* (Harvard, 1999), and his theory of international justice *Law of Peoples* (Harvard, 1999). The newly released revised version of *Theory of Justice* is not substantively changed. The manifold typos in the 1971 version have been eliminated, Rawls has bolstered but not

plenty of introductory resources available to justice as fairness.[134] I will begin by laying out five largely independent reasons why egalitarians object to social and economic inequalities. I will then discuss five challenges to egalitarianism as it has been practiced by political philosophers. The criticisms include that egalitarians are (1) too focused on resources instead of social standing, (2) too permissive of inequalities, (3) not permissive enough of inequalities, (4) unclear on "equality of what?" and (5) too limited to the domestic sphere and neglectful of global justice.

A. What is Wrong with Inequalities?

> Thomas Nagel, *Equality and Partiality* (Oxford, 1991), p. 64.
>
> We are so accustomed to great social and economic inequalities that it is easy to become dulled by them. But if everyone matters just as much as everyone else, it is appalling that the most effective social systems we have been able to devise permit so many people to be born into conditions of harsh deprivation which crush their prospects for leading a decent life, while many others are well provide for from birth, come to control substantial resources, and are free to enjoy advantages vastly beyond the conditions of mere decency. The mutual perception of these material inequalities is part of a broader inequality of social status, personal freedom, and self-respect.

Thomas Nagel clarifies here the wide-ranging cluster of intuitions driving egalitarian thought: the equal worth of all people, the importance of fair equality of opportunity, the degrading conditions poverty imposes on people, and the non-material *social* inequalities of self-respect that accompany material ones.

We can distinguish between four types of equality:
> **(1) Political**
> **(2) Social**
> **(3) Legal**
> **(4) Economic**

But egalitarians argue that the first three types of equality cannot be measured apart from

---

significantly altered his discussion of the metric of primary goods, and occasionally, language has been subtly changed in response to critics. For an excellent write-up of these minor revisions, see Thomas Nagel, "Justice, Justice, Shalt Thou Pursue," *New Republic* (October 25, 1999), pp. 26-39.

[134] For those new to political philosophy, I recommend Jonathan Wolff's *Introduction to Political Philosophy* (Oxford, 1996) or Jean Hampton's *Political Philosophy* (Westview, 1997); for those with some background in distributive justice, Will Kymlicka's *Contemporary Political Philosophy* (Oxford, 1991) discusses egalitarianism, libertarianism, and feminism at a very high level of argumentation. *The Individual and Political Order* (Rowman & Littlefield, reprinted 1998), however, sacrifices a great deal of substance to make political philosophy more accessible.

some measure of economic equality. Is political equality sufficiently met by giving every adult a right to vote and run for office? Is legal equality met by providing a right to a jury trial and counsel?

Is social equality met by banning titles of nobility? Egalitarians answer no to each of these questions.[135]

Here we will attempt to understand the diversity of arguments employed by egalitarians as they object to inequalities.[136] Libertarian opponents often portray the value of "equality" as a particularly abstract, unattainable goal.[137] Once we explore the range of moral considerations that are in favor of the mitigation of inequalities, we can better understand the justification for egalitarianism.

1. Meeting Basic Needs

Philosopher Joseph Raz captures the genuine concern underlying arguments in favor of equality. What worries us about inequalities, he suggests, is much more concrete than an appeal to the moral ideal of equality:

> Joseph Raz, *The Morality of Freedom* (Oxford, 1985), p. 240.
>
> What makes us care about various inequalities is not the inequality but the concern identified by the underlying principle. It is the hunger of the hungry, the need of the needy, the suffering of the ill, and so on. The fact that they are worse off in relevant respect than their neighbors is relevant. But it is relevant not as an independent evil of inequality. Its relevance is in showing that their hunger is greater, their need more pressing, their suffering more hurtful, and therefore our concern for the hungry, the needy, the suffering, and not our concern for equality makes us give them priority.

The first reason for the reduction of inequalities is the humanitarian concern that people ought not to experience deprivation and immiseration in a society with sufficient resources for all to have their most basic needs satisfied. We are to imagine a society without any form of safety net or social insurance scheme. Such a society, Rawls would say, produces unequal outcomes that "one could hardly accept"[138] or, to employ Scanlon's phrase, "one could reasonably reject."[139]

---

[135] Thomas Nagel, *Moral Questions* (Canto, 1979), p. 106.

[136] T.M. Scanlon, "The Diversity of Objections to Equality," *Lindley Lecture*, University of Kansas, 1997.

[137] *ibid.*

[138] John Rawls, *A Theory of Justice* (Harvard, 1971), p. 7. Hereafter *TJ.*

[139] T.M. Scanlon, "Contractualism and utilitarianism," in *Utilitarianism and Beyond*, ed. by Bernard Williams and Amarthya Sen (Cambridge, 1982), pp. 111-114.

But are there *objective criteria* that allow us to distinguish urgent needs from mere preferences? By objective criteria we may follow Scanlon, referring to standards "which are independent of that person's tastes and interests."[140] Even if someone is willing to forgo food in order to build a monument in praise of a god, that fact does not mean that "his claim on others in his project has the same strength as a claim for aid in obtaining enough to eat."[141] Universal human needs trigger obligations with special moral urgency. Most urgent is the alleviation of suffering, but also essential is achieving the minimum conditions of a decent existence.

Even if the urgency of human needs cannot be defined entirely apart from the context of the community at hand, whether Boston or Bangkok, it does not reduce "human needs" to a purely relativistic term. Ultimately, the egalitarian's attention to the least well off, in a society where the poorest members are living in destitution, may follow from the *urgency* of the claims of the most indigent group. But we can imagine – with a hearty dose of creativity – a society where the basic needs of the least well off group are unfailingly met. In such a case, we cannot object to the inequalities of that society by citing this first objection. We must look to the other four reasons to object to inequality.

2. Avoiding Stigmatizing Differences

A second reason to remedy inequalities is that they that bring along with them a stigma, marking some as inferior to others. If, in an ideal society, persons are to view each other as equals, then stigma may be a particularly worrisome product of material inequality. Here is another way of framing the famous difference principle that captures this worry about social inequalities arising from stigma: "economic inequalities are unjust if they give rise to unacceptable stigmatization of some as inferior."[142] This need not be read as an addition or amendment to Rawls, but inferred from Rawls's own most crucial primary good of the social bases of self-respect. The philosopher Avishai Margalit describes the ways in which society's tempering of great inequalities can affront the self-respect of people:

> Avishai Margalit, *The Decent Society* (Harvard, 1996), pp. 226-227.
>
> Poverty is the prototypical case for testing the problem of when to call certain states of affairs or life conditions humiliating – states of affairs that are the result of human action, but without the intention to humiliate anyone … The aspects of poverty that corrode human dignity are exposure, lack of shelter; being alone and without means of defense," that is, total vulnerability and helplessness; abandonment to failure; the battle for life, which is a dog-eat-dog battle over a thrown bone, being lowered to a bestial level in a desperate battle for existence.

---

[140] T.M. Scanlon, "Preference and Urgency," *The Journal of Philosophy* (Volume LXXII, No. 19, 1965), p. 658.
[141] Scanlon, p. 660.
[142] T.M. Scanlon, "The Diversity of Objections to Inequality," 1997 Lindely Lecture (University of Kansas), p. 9.

3. Preventing Domination

A third reason to object to inequality is that it permits forms of domination that we find unacceptable in a civil society. If our needs are not fulfilled, we are "subject to intimidation by the rich and powerful."[143] Unrelenting poverty bestows on some individuals an unreasonable amount of control over other's lives, particularly in the low-wage labor market.[144]

Any human relationship involves some level of vulnerability between the parties, often expressed through interdependence or mutual vulnerability.[145] An *unacceptable vulnerability*, however, is one that is not symmetrical among the parties involved. For instance, poor single mothers may be reliant either on low wages or welfare. They thus face enormous costs when seeking exit from an exploitative workplace environment or relationship. Christine Korsgaard describes concretely, "An unskilled women laborer who puts up with a lower income, poor conditions, or even sexual harassment on the job because her only alternative is to let her children starve is not free."[146]

The second form of domination that the state must seek to prevent is political. Following John Stuart Mill, Rawls worries that those with greater wealth will have proportionally greater political power. Built into the first principle of justice, then, is a guarantee of the equal worth of the "ancient liberties." In short, an individual's social and economic position should not translate into political power and influence. While other liberties have purely "formal" value, political liberties have "fair" value. This means that individuals who are similarly motivated and talented, regardless of their social or economic class, must have roughly equal chances of "hold[ing] public office and influenc[ing] the outcome of political decisions."[147]

4. Procedural Fairness

A fourth objection to inequality admittedly overlaps with the previous objection, political domination, in a particular way: it, too, is concerned with the ability of all participants in society, which is seen as a fair system of cooperation, to have a voice in the political system free of domination. It is a truism that some individuals are born into privileged resources and education that allows them to compete more effectively for social positions, while others are born with much more dismal life prospects, without the requisite conditions in resources and training to compete in the marketplace. Rawls's principle of *fair* equality of opportunity is motivated by a concern for and an attempt to respond to the demands of procedural fairness. Thomas Nagel asks: "How could it not be an evil that some people's life prospects at birth are

---

[143] Christine Korsgaard, "Reply to Sen," in *Quality of Life*, ed. by Martha Nussbaum and Amarytha Sen (1996), p. 38.

[144] See Christopher Jenck's "The Safety Net," in *Rethinking Social Policy* (HarperPerennial, 1992).

[145] In *Justice, Gender and the Family*, Susan Moller Okin writes: "Few people would disagree with the statement that marriage involves, in some respects, especially emotionally, *mutual* vulnerability and dependence," (Basic Books, 1989), p. 138.

[146] Korsgaard 39.

[147] John Rawls, *Political Liberalism* (Columbia, 1993), p. 329. Hereafter *PL.*

radically inferior to others?"[148]

> T.M. Scanlon, "The Diversity of Objections to Inequality," *Lindley Lecture*, University of Kansas, 1997, p. 4.
>
> When inequality of starting points undermines the fairness of a process, domination of those who are placed at a disadvantage does not always result, since the process may confer no power but only honor or the opportunity for a more pleasant or rewarding life. Unfairness, however, remains and can take several forms: some people can simply be excluded from competition, or background conditions such as inequalities in training and resources can render the competition unfair. So the idea of a "fair race" or a "level playing field" – provides a familiar example of this reason for objecting to inequality: inequalities are objectionable when they undermine the fairness of important institutions.

5. Presumptively Equal Outcomes

The final reason for favoring greater equality appeals to the ideal of society as a scheme of cooperation as well. The fruits of cooperation should be distributed equally, it appears to Rawls, unless strong reasons can be given to the contrary. We can read the two sub-principles of Rawls's second principle of justice, the principle of fair equality of opportunity and the Difference Principle as providing such reasons for permissible inequality. The former principle is particularly worried about inequality passed from one generation to the next; the latter is concerned with inequalities between people's life prospects in a given generation. The presumption that outcomes of a cooperative process should be distributed equally unless strong reasons are presented to the contrary does not necessarily bring along with it strong demands for material equality.

These five objections to inequality are all at work in egalitarian theories of justice. How would these objections help a Lincoln-Douglas debater defend public assistance? Or more universal health care? Should we impose work requirements on the provision of welfare? These particular questions rely upon basic moral justifications for remedying inequality:

> Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Harvard, 1996), p. 401n.
>
> Although we do not take up the larger issue of whether welfare is justified at all, the general question of the moral foundations of the welfare state is obviously relevant to the more specific issue of the justifiability of work requirements and other obligations.

---

[148] Thomas Nagel, *Equality and Partiality* (Oxford, 1991), p. 121.

For egalitarians, the proper stance toward the indigent of our society is not charity but equal standing as citizens. We are to understand redistribution to the poorest people of society in terms of *entitlement*, not benevolence.

> Jeremy Waldron, "The Plight of the Poor in the Midst of Many," *London Review of Books*, Vol. 21, No 4, July 15, 1999.
>
> [I]t is not enough to say of such a society that it is doing well on the whole, in the aggregate, or so far as average per capita income is concerned. A well-ordered society advances the good of each and all of its members, so that there is no one from whose gaze or plight we have to avert our eyes, no one whose complaints can be met only with lies or pious nonsense about following one's dream. A society … is not simply well-ordered simply because most people in it are prospering.[149]

Waldron captures the importance that egalitarians put upon the need to justify to every last citizen social and economic inequalities. Utilitarianism, the dominant theory of how to organize society before Rawls's Justice as Fairness arrived, is *aggregative* by its nature. It may be all too willing, in an egalitarian perspective, to countenance the abject poverty of a small minority, so long as society as a whole is economically flourishing by measure of its Gross Domestic Product, for example.

B. Five Internal Challenges to Egalitarianism

The debate between egalitarians and liberations, as I mentioned above, is all too well known. But within the school of egalitarian theorists there have come powerful criticisms of the kinds of arguments being made for greater equality and their limits.

1. Egalitarianism is myopically focused on compensating people with resources.

Contemporary theories of justice, argues philosopher Iris Marion Young, are stuck in the "distributive paradigm," where they conceive of justice merely in terms of transferring goods from some people to others. She identifies the perils of this paradigm.

> Iris Marion Young, *Justice and the Politics of Difference* (Princeton, 1990), p. 15.
>
> [The distributive paradigm] tends to focus thinking about social justice on the allocation of material goods such as things, resources, income, and wealth, or on the distribution of social positions, especially jobs. This focus tends to ignore the social structure and institutional context that often help determine distributive

---

[149] Waldron's superb reflection upon *Rawls's Collected Works* can be accessed online at: http://www.lrb.co.uk/v21/n14/wald2114.htm

patterns. Of particular importance to the analyses that follow are issues of decision-making power and procedures, division of labor, and culture.

Egalitarian justice is not merely about resource distribution, but with the social relationships that determine whether people have equal social standing. Consider Rawls's primary good of "the social bases for self-respect," which he considers the most fundamental primary good. To discuss "distributing" the foundations of self-respect strikes Young as incoherent. Instead we should shift our paradigm to include much more than the transfer of resources from some people to others. Elizabeth Andersen extends Young's argument by advancing an alternative theory of justice which she calls "democratic equality."

> Elizabeth Andersen, "What is the Point of Equality?" *Ethics* January, 1999, Vol. 109, No 2, p. 289.
>
> In seeking the construction of a community of equals, democratic equality integrates principles of distribution with the expressive demands of equal respect. Democratic equality guarantees all law-abiding citizens effective access to the social conditions of their freedom as all times. It justified the distributions require to secure this guarantee by appealing to the obligations of citizens in a democratic state. In such a state, citizens make claims on one another in virtue of their equality, not their inferiority, to others. Because the fundamental aim of citizens in constructing a state is to secure everyone's freedom, democratic equalities principles of distribution neither presume to tell people how to use their opportunities not attempt to judge how responsible people are for choices that lead to unfortunate outcomes. Instead, it avoids bankruptcy at the hands of the imprudent by limiting the range of good provided collectively and expecting individuals to take personal responsibility for the other goods in their possession.

Unlike Young, Andersen's critic quickly becomes a positive theory of egalitarian justice, as sensitive to inequalities in *resources* and it is to inequalities in *non-material* equality. She changes the focus of egalitarian theorizing by conceiving as equality "as a relationship among people rather than merely as a pattern in the distribution of divisible goods."[150] Her theory of democratic equality is worth considering as a fresh way of thinking about justice in Lincoln-Douglas Debate rounds.

2. Egalitarian theories of justice permit too many inequalities.

Another internal criticism of the dominant egalitarian theories is that they are willing to call "just" inequalities in the name of efficiency. Consider Rawls's difference principle, which permits inequalities in primary goods if they work to the benefit of the least well-off of society. In his ongoing campaign against Rawlsian justice, philosopher G.A. Cohen has strenuously

---

[150] Elizabeth Andersen, "What is the Point of Equality?" *Ethics* January, 1999, Vol 109, No 2, p. 336.

argued against the difference principles, *as it is commonly interpreted*, for sanctioning too many inequalities to pass the test of social justice.[151]

To succeed in this argument, Cohen seeks to drive a wedge between those inequalities that are necessary to make the worst off better off – "apart from human choice"[152] – and those that are necessary only given people's self-interested intentions. Only a distorted application of the difference principle, Cohen thinks, would permit inequalities in the case where human choice makes such payments necessary. Material incentives are employed to elicit productivity from "the talented,"[153] those individuals who command a high salary due to their luck in the genetic lottery. This seems to Cohen to be a case of economic blackmail, for it sanctions any inequality that can be shown to benefit the least well-off, even if that results from "the self-seeking choices of high-flying marketers."[154]

3. Egalitarian theories of justice should permit greater inequalities.

Though this claim is a familiar objection from libertarians like Hayek and Nozick, it also is endorsed by some critics who nonetheless call themselves egalitarians. Abject poverty in the United States, they might argue, is inexcusable and not enough is being done to reduce it. But the kind of redistribution demanded by the theories of justice of Susan Okin[155] and John Rawls is simply too much. Nagel, playing devil's advocate, makes this point:

> Thomas Nagel, *Equality and Partiality* (Oxford, 1991), p. 69.
>
> One might of course agree that the world is a pretty terrible place without subscribing to an egalitarianism as general as I have proposed. One might say that all the moral intuitions of which we can be confident would be fully accounted by a principle of priority to those who are not only worse off than others, but absolutely deprived, because their basic needs for food, shelter, health, and minimal self-respect are not being met.

This point parallels the first objection to inequality we considered in the previous section: a person concerned about the immiseration of the least well off may not object to inequality *per se*. They may object to the absence of a social safety-net, under which no individual can fall. Once a society has lifted its citizens beyond this economic threshold, it may be argued, there remains no objection to inequality in and of itself.

---

[151] Contrast this criticism on which inequalities are permitted by the difference principle with Nagel's recent critique, which argues that the difference principle should admit inequalities whose causes are naturally, and not socially, produced.

[152] Cohen 8.

[153] Cohen 6-8.

[154] G.A. Cohen, "Where the Action Is: On the Site of Distributive Justice," *Philosophy and Public Affairs* (Winter, 1997), p. 5.

[155] See Susan Moller Okin, *Justice, Gender, and the Family* (Basicbooks, 1989).

4. Egalitarian theories are ambiguous about what kind of equality they care about.

The Nobel Laureate economist-philosopher, Amartya Sen, famously asked the question, "Equality of What?" to egalitarians and non-egalitarians alike. There are interpersonal diversities[156] – difference in personal characteristics, nutritional needs, and environments – among human beings which need to be taken into account when figuring out what sort of *metric* we will use to measure inequality.

> Amartya Sen, *Inequality Reexamined* (Harvard, 1992), P. 12.
>
> Two central issues for ethical analysis of equality are: (1) Why equality? (2) Equality of What? The two questions are distinct but thoroughly interdependent. We cannot begin to defend or criticize equality without knowing what on earth we are talking about, i.e. equality of what feature (e.g. incomes, wealth, opportunities, achievements, freedoms, rights)? We cannot possibly answer the first question without addressing the second. That seems obvious enough … Every normative theory of social arrangement that has at all stood the test of time seems to demand equality of something – something that is regarded as particularly important in that theory.

Sen's philosophical and economic work on international developmental economics and attempt to systematically define poverty has had tremendous influence in the public policy world.[157] He has forced egalitarians to reconsider the adequacy of the metric upon which they are relying when they call for greater "equality." Scanlon's approximation of five objections to inequality above represents just that kind of specificity for which Sen is calling.

5. Egalitarians do not sufficiently extend their concern for equality beyond domestic borders.

The final, and in many ways most powerful, criticism of egalitarian theories of justice is that they fail to appreciate and offer prescriptions to reduce the startling inequality globally. This criticism can by no means be applied across the board. There have been two well-orchestrated attempts to extend Rawls's justice as fairness to the international level by Charles Beitz and Thomas Pogge.[158] Just as are gender, ethnicity, and innate talents are morally arbitrary (because they are unchosen), so too, it seems that the nation in which we happen to be born in is just as out of our control. Yet where we are born in the world matters fantastically for the opportunities we will have to live a decent life, learn how to read, receive basic health care, and even avoid

---

[156] Amarthya Sen, "Equality of What?" in *Inequality Reexamined* (Harvard, 1992).
[157] See Sen's "Poverty and Affluence" in *ibid.*
[158] See Charles Beitz, *Political Theory and International Relations* (Princeton, 1979) and Thomas Pogge, *Realizing Rawls* (Cornell, 1989).

starvation.[159]

A committed egalitarian, it seems, have to call about inequality wherever it manifests itself in our *world*, not just one's own *country*. Pogge discusses the global injustice that is motivating the internationalization of the original position:

> Thomas Pogge, *Realizing Rawls* (Cornell, 1989), p. 273.
>
> There are the abundantly documented facts of widespread extreme deprivation and disadvantage … Such widespread human misery provides the occasion for moral reflection, which must examine two ways in which we might be connected to this misery: Why do such radical inequalities persists, and what role do we play in their production? And how might such radical inequalities be overcome, and what role can we play in their eradication?

The solution, claims Pogge, is to argue for the inclusion of one's nationality to the list of factors which we hold to be morally arbitrary. Such considerations should not determine how the benefits and burdens of the world are distributed. Rawls's original position is designed to answer the question: What principles would free and equal members of society rationally agree to in order to regulate their cooperation? Pogge's globalized account includes every human being, regardless of the country they happen to be born and raised in, behind Rawls's "veil of ignorance." We are ignorant of the fact of our nationality so that that fact cannot taint[160] our moral deliberation about a just world. The resulting theory looks very different from a "domesticated" theory of justice, because it demands a great deal of redistribution between developing and developed countries.[161]

C. Conclusion: Living Behind the Veil of Ignorance

John Rawls's theory of justice as fairness, the most prominent egalitarian theory, asks us to step behind a "veil of ignorance"[162] when setting the ground rules for society – a veil that denies us information about our particular class, our gender, our race, and our inborn talents and abilities. These are morally irrelevant traits that society ought not to privilege. But why does Rawls think that his elaborate thought experiment serves as a helpful tool for modeling our ideas of fairness? Rawls's assumption is that the mere knowledge of our place in society may distort our reasoning about justice. Our everyday moral judgments about the state may be tainted by these morally irrelevant factors. Only after stepping outside of ourselves and our

---

[159] In 1999, one-third of the world is undernourished and almost half the world's population has access to proper sanitation. More than 130 million children of primary school age in developing countries, including 73 million girls, are growing up without access to basic education. And one- sixt<u>h</u> of the world is illiterate. See www.unicef.org

[160] To see how such knowledge could "taint" our moral deliberations, see the next section.

[161] It certainly requires that the United States pay its United Nations dues and contribute more to international aid abroad.

[162] John Rawls, *Theory of Justice: Revised Version* (Harvard, 1999), pp. 118-123.

social position can we critique policies from the eyes of social justice, not individual interest.

Rawls's much-touted thought experiment, then, hopes to free us from the pulls of our privilege and the tugs of our self-interest. It helps clarify the contradictions implicit in the laws and social policies that have pervasive effects on our everyday lives. Literally hundreds of articles have denied that individuals behind the veil would arrive at the substantive principles of justice that Rawls envisages – on the grounds of rational choice theory and experiments of social psychology. Even if we feel the power of these criticisms, I think that Rawls's minimum message is much more difficult to deny. Those people who are ignorant of their place in society will pay particular attention to the poorest positions – their eyes will wander down the social ladder as they ask themselves: "Am I prepared to spend the rest of my life in this material and psychological condition?"

I conclude with a rough description of the "original position" because it models how many egalitarians reason about social justice. We hope to live in a society where people respect each other as equals. So we construct a "moral viewpoint" from which we can arbitrate among competing ways of structuring society. In Lincoln-Douglas debate, there are few topics that cannot profit from taking into account egalitarian considerations.

Feminism and Feminist Theory

By Tara Norris

This article gives an overview of the history of Feminism and core terms in Feminist Theory, recommends using Feminism-specific frameworks for cases drawing on this body of literature, and finally recommends avenues for further research.

Writing an overview of "feminism" in a few pages is kind of like trying to describe the rise and fall of the Roman Empire in ten words or less (Toga! Caesar! Gladiator! Global Domination!) This won't even begin to approach a comprehensive overview of feminist thought; it's more a brief collection of introductory ideas that will be useful for you to understand if you plan on exploring this field. In addition to being a fascinating and rewarding way of thought, feminism can be used strategically in debate rounds. Even if you don't run these arguments, it's important understand how they function for debate rounds or topics where feminist arguments will become important.

History

Although many women throughout history have advocated for gender equality, the trajectory of formal feminist movements in the United States during modern times can be traced through a few distinct stages, or "waves."

First Wave: In the late 1800s and early 1900s, socially conscious women banded together to advocate for basic equal rights, including female suffrage. First wave feminists were generally white, upper middle class women focused on fighting for full legal citizenship rights for women. In 1920 (less than one hundred years ago!), Congress passed the Nineteenth Amendment, which granted women the right to vote. First Wave feminists were generally more socially conservative than you might think of modern feminists being, and many of them embraced the ideal of feminine domesticity.

Second Wave: The "Women's Liberation" of the 1960s and the 1970s focused on the fights for social equality, allowing women to work outside the home and be financially independent, and for reproductive freedom. Second Wave feminists fought against constricting social expectations that women be traditionally feminine homemakers.

Third Wave: Because First and Second wave feminists were generally concerned with the problems of upper middle class, educated, white women, Third Wave feminists were critical of feminists' focus on "white girl problems." Third Wave feminists have generally been more inclusive of a wide variety of experiences as being "women's experiences," rather than pushing a single narrative of female liberation from forced domesticity.

It's important to be aware of this history when you begin learning about feminist thought because the literature is steeped with criticism of the feminist movement almost as much as it criticizes patriarchal society. Be prepared to think about how your arguments, although originating from a feminist thinker, might be vulnerable to criticism from another feminist thinker.

Introduction to Terms

Feminism is, at its most basic, the idea that people should be treated equally, regardless of gender or sex. The meaning of "equality" and the acceptability of various actions in pursuit of that goal, however, are and have been topics of serious debate among feminists.

Notice that I said "gender or sex." These words are used interchangeably sometimes by your parents, teachers, or friends, but they have different definitions that are very important in feminist writing. "Sex" is usually used to describe the biological classifications of "male" or "female." "Gender" is the socially constructed set of characteristics that are associated with "men" or "women." Gender is considered "binary" in Western thinking: there are only two options (men and women), and people can be classified as one of the two. Rather than being an inherent quality, gender is performative: it is something that we *do*. For example, when I wake up in the morning, I put on a dress or a pink shirt and maybe even put on makeup. In doing those things, I act "like a woman." By acting "like a woman," I tell the world that I am a woman and strengthen the perception of what a woman is and does. Often, people around me will make assumptions about my sex based on how I perform my gender. People might also make assumptions about my gender based on my sex: for example, they might expect that I am sensitive, emotional, and nurturing, because those are qualities that are associated with "femininity."

Inequality based on gender or sex is not just a series of isolated incidents that should be combated one by one. Patriarchy is the systemic and institutionalized subjugation of women under men. Etymologically, it refers to a family structure in which the oldest man is considered the head of the family or social unit. If you extend the logic of that familial organization to an entire society, you would end up with a situation in which men hold most of the powerful positions, or in which it would be reasonably assumed that any given man has more power than any given woman. This does not mean that there are no women who have power over men. This means that, in general, the default assumption of a patriarchal society is that men will be in a more powerful position than women, because men gain power more easily than women in patriarchal societies.

It's probably not difficult for you to describe a society as "patriarchal" if, for example, women are not educated, it is illegal for them to work outside the home, and it is socially acceptable to say that they are less intelligent or capable than men. This kind of

overt sexism is easier to identify than more insidious patriarchal norms, but it is no less real. The fact that some women are able to become CEOs or politicians in the twenty-first century USA is not a warrant for the claim that patriarchy is dead. For example, a company might not want to hire a woman for a job that involves a lot of business travel because they worry she might become pregnant and be unable to be out of town for long stretches. Or, Congress might make a law that restricts women's access to birth control, decreasing a woman's ability to put off pregnancy indefinitely or until she is in a stable financial position (sound familiar?). Statements, policies, and institutionalized assumptions that re-entrench assumptions about gender roles or norms re-entrench patriarchy and make it more difficult to combat institutional barriers to female empowerment. If you are a man, you will probably not confront these barriers, which feminists refer to as male privilege.

Debaters are often frustrated by feminist arguments because they see them as a "slippery slope." "Even if this one resolution advocates something that is bad for women or furthers male privilege at the expense of women," they argue, "it's not the cause of oppression against women, rape, or war. Voting against this resolution won't solve the patriarchy." This is sometimes a successful argument and sometimes not. Arguments like this, in general, require more nuance if they are actually going to engage with the feminist thinking that is at a root of many of the positions in question. Debaters that skirt the idea of patriarchy and debate on an issue-by-issue basis ignore the reality of larger systems that discriminate against women. At the same time, feminist positions should be crafted carefully. All too often debaters pull the impacts of patriarchy from some musty backfiles (the "patriarchy causes nuclear war and human extinction" being the most common but not the only example) and then throw out a few contention-level arguments connecting the resolution to women. Debaters often do little or no analysis warranting how something that is bad for women contributes to patriarchy. Policies or philosophies that are bad for *some* women are not necessarily a contributing factor to patriarchy. Debaters should show how they contribute to barriers directed at women or encourage male dominance to strengthen cases that use feminist theory.

Framework

Speaking of case construction, the best feminist cases tend to use feminist frameworks. This is because, although female oppression is directly relevant to at least half of the population, there is a strong perception of feminism as a "women's issue" that should be dealt with by women if possible and without much trouble to the rest of society. Standards that set a limited scope to "feminist" issues (like "rejecting patriarchy") will be more successful than ones that are general with feminist impacts linking back.
One thing to be cautious of when debating with a case about feminism is the impacts that you will accept linking back to your standard. It is easy for debaters to try to say "feminism = stopping things that are bad for women. X impact is bad for women, so I link into the criterion." Your opponent might try to link in with a general

consequentialist impact – people dying, for example – by saying that women are among those affected by the consequentialist impact. This is a way for them to turn your case into a basic util case. If you are clear about the systemic nature of patriarchy, and that impacts under your criterion must link to institutional female oppression rather than incidental harm to women, it will be much more difficult for your opponent to garner offense.

The Literature

If you're interested in feminism, the best thing you can do is read feminist literature. If you only understand feminist theory well enough to run one position, you won't even be able to make it out of cross-ex.

Gender in International Relations by J. Ann Tickner is a good place to start if you're interested in creating a feminist international relations framework, which is one of the most common areas of feminist thinking used routinely in LD debate. Men make up the academic field of international relations and have most of the real power in that field. Unsurprisingly, the concerns of international relations theorists tend to be security and military-focused, and women's issues get ignored. For example, a military dictator might be viewed as dangerous if he threatens to go to war with his neighbors, but not if his supporters are raping women in the region as a way to threaten dissidents in surrounding areas. Tickner argues that international relations' traditional focus ignores relevant issues to women because women are excluded from the military and formal political power in many states. Thus, she and other feminist international relations theorists focus on the "periphery" (i.e., the section of society that is often ignored or deemed unimportant by traditional decision-makers) and examine the impact of large-scale decisions on individual people's lives. Feminist international relations theorists don't just study women; their focus on the periphery also leads them to examine ethnic minorities and the economic disadvantaged. Other feminist international relations authors that you might want to explore are Charlotte Hooper and Jill Steans.

Another interesting field to study in an international relations topic is feminist security theory. This is the idea that traditionally "masculine" virtues, like power and self-reliance, dominate the discussion of international relations, which is mostly couched in realist terms. International relations theorists focus on "the other" and the potential dangers to the self as the guiding principle in international relations. This doesn't allow other perspectives, including the feminist perspective, to be incorporated into the international realm. Approaching alternate perspectives with fear and distrust rather than attempted understanding and incorporation contribute to aggression and strength as the guiding values of international relations.

If you're interested in a very critical view of gender and sex, read *Gender Trouble* by Judith Butler. Butler's writings on sex and gender are more nuanced than what I

described above. Butler is critical of the binary system that we use to describe sex, and she writes that both sex *and* gender are performed in society. Butler famously advocates destabilizing rigid gender binaries by dressing in drag. Because of her beliefs about sex and gender, Butler does not believe in a female political subject with unified interests. In simpler terms, the idea of "women's issues" is incompatible with Butler's worldview; instead, there are only "person's issues." For a conflicting viewpoint, I would check out Seyla Benhabib's work (her book *Situating the Self: Gender, Community, and Postmodernism in Contemporary Ethics*, is useful in both feminist cases and non-feminist cases as an answer to relative, postmodern ethics). Benhabib writes that we do need a universal female identity and "women's issues"; dissolving the female subject makes it impossible to condemn patriarchy and unite women against atrocities directed at them.

Conclusion

Approximately half of all the people in the world are women. Feminist thought isn't a strange concept or something that you should ignore because you don't think you'll hit it in many rounds. It is extremely important to critically examine social assumptions and institutions, and debate is an excellent place to begin that process. Good luck!

Environmentalism

By Fred Carroll

This article briefly describes three major strands of environmentalism: Reformism, Deep Ecology, and Social Equality. It also provides reading lists for further research.

Environmental theory is an area of modern philosophy which is highly applicable in LD debate not only due to the increasing number of resolutions that deal with the environment, but also because of its relevance in the areas of politics, economics, and ethics. The following is a brief survey of some of the arguments and ideas posed by the many branches of environmental theory.

Reformism

"Reformism" (which is about as arbitrary as a title can get), is probably the most well-known branch of both the ecology movement and environmental philosophy. Reformism generally refers to a "work-within-the system" set of beliefs that can be associated with the liberal camp. Also referred to as "shallow ecology" by more hardcore environmental groups, reformist ecology stresses change toward more environmentally "sound" ways of thinking and acting within the system we've got, and thus differs from the other environmental camps yet to be discussed. The "greening" of society is the general goal of this very general field. I'll not go into this particular area in too much detail because you all are probably are quite familiar with it and its general promotion of things like "green" products and gadgetry, recycling, animal protection, and resource conservation and the like. The general nature of this area makes it easier to define by telling what it's not, which the following discussion of the more radical fronts of ecological theory should do.

Deep Ecology

"Earth Firsters, eco-heads, tree-huggers, eco-terrorists, eco-fascists, and radical environmentalists" are all terms used, with varying degrees of inaccuracy, to describe deep ecologists. Don't be fooled, though, deep ecologists aren't necessarily a liberal (using the modern political connotations) group of folks. Ned Ludd Books (a primary publisher and distributor of books on deep ecology) offers bumper stickers reading "Rednecks for Wilderness" - not a real liberal message.

The primary tenet of deep ecological thought is a concept called biocentrism. Biocentrism is the opposite of anthropocentrism-the belief that nature and life and everything should be centered on human beings. Biocentrism advocates that the biosphere itself, including ants, vegetation, mammals (including humans), fish, birds, and all other forms of life should be at the center of concerns, rather than placing humanity higher on the hierarchy of life. If you think about it, this

is a pretty radical notion-that humans have no more intrinsic worth than worms or bees-that deals a good left hook to the jaw of Western thought for the last few thousand years. It's not a new idea either, having been present in the beliefs of many Native American and Asian schools of thought, not to mention the other tribal societies that I don't know much about. Biocentrism can also, if you watch your diction, make for a pretty good argument. I mean, why, logically, why should our thumbs make us superior to other life forms? Thankfully, there's also a bunch of evidence to support biocentric arguments (see reading list.)

This belief in biocentrism contributes significantly to a field called "conservation biology". Conservation biology is a primarily scientific approach directed toward protecting all forms of life and demonstrating the interrelatedness of different life forms within various ecosystems. It is important to note, though, that not all conservation biology falls under deep ecology or vice versa, although the two often overlap. Conservation biology argues for the preservation of wildlands, critters, and Earth in general by stressing the need for biodiversity rather than for the more anthropocentric reasons such as nice scenery and swell picnic places. In this sense, much of the evidence brought forth in the field of conservation biology argues very effectively for deep ecology.

Another important aspect of deep ecology is the tendency of its advocates to believe in direct action tactics. Espousing the belief that reformism is slow and of limited effectiveness, many deep ecologists support the idea that by directly engaging those who would harm the earth, more decisive progress can be made in protecting the earth. It is on this front that deep ecologists face most of their criticism. Obviously, direct action has many forms ranging from legal, peaceful protest to less legal and peaceful forms of monkey-wrenching.

Using tactics such as tree-spiking and equipment modification and disassembly has led some critics to use phrases such as "eco-terrorists" or "eco-fascists" to describe environmental activists. Keep in mind, though, that it is logically fallacious to assume that all deep ecologists spike trees or modify equipment. Certainly the theories of deep ecology (primarily biocentrism) have little direct association with the various means of direct action. Also keep in mind that even the more radical forms of monkey-wrenching have justifications and arguments in their defense. (See reading list) Don't let poorly reasoned sensationalist arguments discredit either the broader theories of deep ecology or the sometimes advocated actions that may be associated with them.

Another idea commonly associated with deep ecology is bioregionalism. Bioregionalism, through examination of scientific evidence, contends that areas can be broken down into different bioregions based on the ecology of the area. Bioregionalists use this research to argue that such bioregions should be recognized and treated as such, which, in turn, leads to a variety of conclusions, the most popular of which seems to be that we should operate (and perhaps even re-form communities) around such bioregions so as to act in accordance with, rather than in opposition to, nature.

Applying these aspects of thought to the status quo, deep ecologists often argue in favor of

establishing wilderness and wildlife preserves to protect and preserve the earth. On   economic or environmental resolutions those ideas can be used in various forms. Practically, you can argue for preservation and/or conservation using the ideas of bioregionalism and biocentrism. Theoretically, arguments regarding the intrinsic value of life can be used in opposition to the hierarchical anthropocentric arguments which give non-human life only extrinsic value. Either way, an actual plethora of evidence can be found supporting a wide variety of arguments under the deep ecology banner. The above is at best a summary of some of the points.

A good reading list of texts on deep ecology would include the following:

• Ehrenfeld, David. The Arrogance of Humanism. Oxford U. Press 1978
• Erlich, Paul. The Machinery of Nature, Simon and Schuster 1986.
• Foreman, Dave (ed.) Ecodefense 1987
• Fox, Warwick. Toward a Transpersonal Ecology. Shambhala Publications 1991
• Leopold, Aldo. A Sand County Almanac. Oxford U. Press 1987 (1949)
• Manes, Christopher. Green Rage. Little Brown 1990
• Mills, Stephanie. What Ever Happened to Ecology? Sierra Club Books. 1989
• Naess, Arne. Ecology, Community and Lifestyle. Cambridge U. Press 1989
• Sale, Kirkpatrick. Dwellers in the Land. New Society Publishers 1991 (1985)
• Sessions and Devall (George and Bill). Deep Ecology. Peregrine Smith 1985
• Soule, Michael. Conservation Biology, Sinauer Associates 1986.
• Wolke, Howie. Wilderness on the Rocks. Ned Ludd Books 1992

Social Ecology

Social Ecology is a field of ecology and politics formalized and primarily advocated by anarchist philosopher Murray Bookchin. Social ecology is similar to deep ecology in many of the aforementioned aspects, but it also differs in key ways.

Politically, social ecology advocates decentralization of government, with the power switched from national agglomerations to "libertarian municipalities", which because of their small size are able to operate in a sense of direct democracy. Bookchin advocates that these municipalities be based on bioregions. Unlike deep ecology, however, social ecology is emphatically not opposed to technology in general, although Bookchin does condemn nuclear weapons and biochemical arms (and the like) as purely evil.

Another key point of difference between deep and social ecology is that while some deep ecologists make misanthropic remarks or even advocate misanthropy, social ecology strongly opposes such anti-human sentiments. Also, instead of wholeheartedly accepting the idea of biocentricity, Bookchin suggests that any sort of hierarchy, whether humans or non-humans hold the top seat, leads to oppression and negative social relations as well as harm to the ecology. Bookchin stresses that humans must act as a part of nature, neither superior to nor of lesser importance than non-human life.

This opposition to hierarchy in nature is carried over in social ecology to an overall opposition to hierarchy in all of its nasty forms. Thus, Bookchin advocates a kind of social eco-anarchism where all hierarchy, whether it be based upon race, gender, religion, or species is eliminated to be replaced by voluntary cooperation. Bookchin also points out that an integral part of social ecology is its strict difference from any sort of eco-mysticism. Any group of thought which uses deities (whether Christian, pagan, or whatever) to glorify the earth is still based on hierarchy by placing such mystical whatevers above tangible life. The main tenet of social ecology, as I hope is clear by now, is opposition to any sort of hierarchy. Bookchin also goes into other topics such as problems with cities and economic scarcity in his many works, a partial list of which follows.

Titles by Murray Bookchin

• Defending the Earth (dialogue with Earth First! co-founder Dave Foreman) South End Press 1986
• Post Scarcity Anarchism. South End Press 1986.
• Remaking Society. South End Press 1991
• The Ecology of Freedom. South End Press 1992 (re-issue)

The Value of Autonomy

By Eric Beerbohm

This essay notes the range of meanings and questions related to the idea of autonomy. It then describes four dichotomies which help to delineate the various conceptualizations of autonomy. Finally, it describes four conceptions of autonomy from different theoretical perspectives.

Autonomy, literally meaning self-rule, is a concept which has been in the currency of political theory and philosophy since Ancient Greece. Political philosophers have used it in so many contexts that Gerald Dworkin has aptly noted: "About the only features held constant from one author to another are that autonomy is a feature of persons and that it is a desirable quality to have."[163] Of course, in Lincoln-Douglas Debates, the values of autonomy and justice are often assumed to be valuable ends. Neither an explanation nor a defense is often given. Debaters may refer to the values of "moral autonomy" or "political autonomy" with an air of self-evidence which is not merited.[164]

Autonomy is very much a contested value, both in its definition and its moral worth. Immanuel Kant placed autonomy at the basis of human dignity and the source for morality.[165] Educators cite autonomy as an essential goal of education. Bioethicists trumpet the autonomy of patients to decide for themselves the direction of their medical treatment. The pro-democracy movement in China attacked the governmental regime for denying individual autonomy of citizens. And the list could go on.[166]

It has become popular in recent literature to argue that:

- Society countenances the autonomy of the individual at the expense of the community at large.[167]
- Society values cultural autonomy at the expense of individual autonomy.
- Society values individual autonomy at the expense of cultural autonomy.[168]

This is not an exhaustive list of the range of moral/political questions that the value of autonomy enters. The fields where autonomy is an important concept include rational choice

---

[163] Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge, 1988), p. 6.

[164] But Dworkin's quote suggests that Lincoln-Douglas debaters are no more at fault than the political philosophers they are reading.

[165] Thomas Hill, "The Importance of Autonomy," from *Autonomy and Self-Respect* (Cambridge 1991).

[166] I want to thank Rob Reich for these examples at the Political Theory Workshop, 1999.

[167] See, for example, William Galston in "Two Concepts of Liberalism," *Ethics* April 1995; and Chandran Kukathas in "Cultural Toleration," *NOMOS XXIX: Ethnicity and Group Rights* (New York: NYU Press, 1997), pp. 69-104. The NOMOS series is a superb source for Lincoln-Douglas debaters interested in reading the top philosophers debating each key moral and political values.

[168] See Willard Gaylin and Bruce Jennings in *The Perversion of Autonomy* (DIANE Publishing Company, 1999).

theory, psychology, bioethics, and moral and political philosophy. Yet there is a surprising lack of philosophical work devoted to understand the competing meanings of "autonomy" as it is evoked in so many fields.

You will not leave this chapter with an answer to the question: What is the meaning of autonomy? There isn't even room to survey (exhaustively) how philosophers have used the term. Here I will offer four ways of dichotomizing autonomy and four conceptions of the value of autonomy. I will suggest a conception of it which I find particularly appealing and, I think, workable in the context and time-constraints of Lincoln Douglas Debate.

I. Four Dichotomies of Autonomy

1. Individual vs. Group Autonomy

First we can make the distinction between individual autonomy and group autonomy.[169] This tension is reflected in debates such as the right of the Amish to pull their kids out of school when they turn fourteen years old and the right of certain cultures to systematically educate their young men better than their young women. Group autonomy can describe a variety of social groupings, and the rights of such groups to be free to determine their own course of action. Individual autonomy, on the other hand, refers not merely to the independence of the individual to make choices about their own life, but also, it requires that the individual exhibit a reflective attitude towards one's values, beliefs, and commitments.

Note the distinctions between individual and group autonomy drawn above. First, individual autonomy involves critical reflection upon one's range of choices which group autonomy does not seem to involve. We can ask: In what sense can groups even have critically reflective attitudes? It would be a mistake to work out of definition of individual autonomy based on the simpler model of group autonomy. The latter merely seems to refer to a "negative liberty" – freedom from interference; the former includes a freedom coupled with a critical assessment of our most deeply held beliefs.

Second, it would be too crude to view the relationship between individual and group autonomy as a zero-sum game. It is a much more complicated dynamic. Sometimes, without doubt, respecting the autonomy of a group may do harm to the autonomy of an individual in that group. Theorists often cite the Amish case to demonstrate this trade-off. Assuming that the Amish norms are in fact aimed at limiting the ability of its members to determine the kinds of lives they choose to lead, this case presents us with a clear-cut case between enhancing group autonomy at the expense of the individual.

The reverse also holds true. If a group is required to pay greater respect to the autonomy of its members, those members may be more likely to question or even dissociate themselves from

---

[169] This distinction is made by political theorist Rob Reich in his unpublished manuscript, "On Autonomy," 1999.

the group. The more independent and self-critical individuals have a chance to become, the argument goes, the more likely they will feel empowered to no longer identify with the group to which they belong. These have been called "exit rights" from cultural or political groups. (There's a great debate as to whether it is appropriate to look at actual exit rates from relatively closed communities like the Amish. Presumably if the exit rate falls too low, that is indicative of a culture that is not leaving sufficient space for individuals to choose to leave. Yet if we demand too high an exit rate, we may be placing burdens of exit that are unreasonable, and that may risk the very existence of the culture. This is a very difficult issue, and I can only complicate it here.)

It is just as possible that respecting the autonomy of groups may promote the autonomy of its members. International policymakers may agree that creating an autonomous Palestinian state would be conducive to the autonomy of individual Palestinians, allowing them the opportunity to create formal political structures of their own. And finally, we need not assume that enhancing the autonomy of individuals within groups will even threaten the autonomy of the group as a whole. To the contrary, the group may be strengthened when its members critically assess their membership in the group and then endorse it on reflection grounds.

2. Global vs. Local Conceptions of Autonomy[170]

Clarify the scope of autonomy as you are using it. Are you thinking about whether an individual acted autonomously in a particular situation, or about the relative autonomy of a person's life as a whole?

In the former case you may consider whether an individual:

a) Felt free to act, for the feeling of coercion seems to taint an action, that is, make its independence questionable;

b) Had weighed a set of alternatives from which they reasonably could have chosen;

c) Acted without thought, in a knee-jerk sort of response;

d) Guided the action herself or merely mimicked the actions of others; and

e) Compared a proposed action with her principles, value commitments, and beliefs about the ethical life. (This is a more controversial consideration in assessing the degree of autonomy of an action because it may imply that hypocritical or just plain wrong action cannot really be done autonomously. Insofar as we hold autonomy as a prerequisite for holding people responsible for their actions, this line of thought could be used—I believe incorrectly—to excuse wrong actions.)

---

[170] I borrow here from Gerald Dworkin. See footnote 1, page 14ff.

In case-by-case determinations of autonomy, (a) through (e) may be relevant considerations. In "global" determinations of autonomy, we are not looking at particular acts but a much larger view of a human life. If we want to determine whether a person is autonomous on this global conception, we may be asking the following types of questions:

a) To what extent are they able to live their lives consistently with their conceptions of the good?

b) Have they been able to act upon their commitments and beliefs?

c) Have they been critically reflective about those commitments and beliefs?

d) Have they been free to make decisions about crucial aspects of their lives?

This global way of conceiving of and assessing autonomy, I want to suggest, is a more helpful way to conceive of the subject. Imagine a repressive government which forbids religious freedom while providing its "citizens" with a right to patronize whatever supermarket they wanted. This suggests that autonomy, more broadly conceived as covering the scope of a person's life, gives us a better sense of whether someone has essential independence and critical reflection upon their life choices. Decisions of particular significance include the freedom to choose a religion, a partner in marriage, and a career. A government that disrespected a person's autonomy in these fundamental areas of life, and yet paid lip service to trivial life options, remains unjust to the core. This is because discrete acts of respecting autonomy, taken by themselves, do not tell us enough about the general character of a person's life options as a whole.

3. Degree vs. Threshold Conceptions of Autonomy

This does not seem like one of the more difficult dilemmas. Determining whether someone is properly autonomous appears to be a matter of degree.[171] We are certainly not born autonomous. Rather we seem to grow in our capacity to exercise our autonomy. The exercise of autonomy will vary by degree across persons as well. Factors such as luck, opportunities, and physical and mental health will obviously contribute how much we can exercise our autonomy.

While the extent to which people can exercise autonomy may vary by degree, perhaps respecting the autonomy of others is more akin to a threshold condition.[172] Political liberals often argue that governments can be roughly categorized into two groups: those that respect the conditions of individual autonomy or those that deny such conditions. In arguing for states

---

[171] Philosophers who have described autonomy in terms of degree include Dworkin 1988; Lawrence Haworth, *Autonomy: An Essay in Philosophical, Psychology, and Ethics* (Yale University Press, 1986), p. 45; Richard Lindley, *Autonomy* (London, 1986); and Joseph Raz, *The Morality of Freedom* (Oxford, 1986).

[172] Philosophers how have defend this "threshold conception" of autonomy include Joel Feinberg, "Autonomy," in *The Inner Citadel*, John Christman, ed. (Oxford 1989), pp. 29-30.

to respect autonomy, they are proposing a set of standards which collectively provide us with a threshold for judging state action. Many theorists have described Afghanistan, for instance, as a state that patently fails to respect the autonomy of its people, precisely because it does not recognize its citizens as free and equal. Because of deep structural sexism, educating girls has been all but outlawed by the Taliban, the controlling regime. In this case it makes little sense to say that the Taliban is respecting the autonomy of Afghans 60% – or some degree. Rather, many people feel justified in simply condemning the regime for its violations of individual autonomy. This may help explain the attraction of the threshold approach conception of autonomy.

4. Autonomy vs. Freedom

Often debaters will simply defend the value of autonomy as a more sophisticated-sounding cousin of "freedom" or "liberty." Certainly autonomy is conditional on the ability of a person to act freely, without coercion or duress. **But there is a further notion built into the value of autonomy that makes it irreducible to freedom from interference: the degree to which we are directing our life choices reflectively.** A person who joins the army or a monastery may not be particularly free in a conventional sense. But their choice to have their freedom limited can come from a set of reasons they endorse as their own. In this case one's relative freedom does not tell us very much about the degree to which they are acting autonomously.

On the other hand, a person with a great deal of freedom may not be acting autonomously. A teenager with lots of time on her hands, and yet who uncritically mimics Vanilla Ice rather than making a life of her own, is not commendably exercising her autonomy. **In short, freedom from major constraints on our lives seems to be conducive to, but not tantamount to, the exercise of autonomy.**

II. Four Conceptions of Autonomy

Most debaters can agree that the *concept* of autonomy involves self-governing action by a state or individual. The difficulty is spelling out a *conception* of autonomy that clarifies *what is means for someone or the state to be properly autonomous*. This is the role of the value criteria in a Lincoln-Douglas round: to set the conditions for the attainment of a proposed value. (For a helpful distinction between a *concept* of a value and a *conception* of a value, see the first dozen pages of *A Theory of Justice.*)[173]

1. Philosopher's Conception of Autonomy

One way of clarifying a unique conception of autonomy is to turn to Immanuel Kant and John Rawls's view that autonomous action is essentially *impartial*. To have autonomy is to detach ourselves from our particular self-interest and desires, and impartially determine principled action.

---

[173] I am grateful to Rob Reich for distinguishing between three of the four conceptions of autonomy below.

Ask yourself what an ideal moral judge would look like. In both Kant's and Rawls's views, such a judge would *review* a range of moral values and principles of action. Then the judge would *reflect* on possible conflicts between these values and principles and render them consistent if possible. The judge would finally *decide* the most morally acceptable principles, and whether they should be amended or qualified in any way.[174]

The opposite of this method of deciding on moral principles is simply to defer to tradition, and justify one's actions because "things have always been done with way." Kant reprimands this view with ferocity in *The Critique of Pure Reason* when he writes that "nothing is more reprehensible than to derive the laws about what I ought to do from what is done, or to limit it to that."[175] Thus, merely acting on a principle because it has been done before, or because it is in line with tradition or, even because someone told you to, is an affront to the value of autonomy.

Historian of philosophy Allen Wood notes an often-stated objection to this working conception of autonomy in Kant's ethics:

> Allen Wood, *Kant's Ethical Thought* (Cambridge, 1999), p. 155.
>
> Autonomy of the will as the ground of moral obligation is arguably Kant's most original ethical discovery (or invention). But it is also easy to regard Kant's conception of autonomy as either incoherent or fraudulent. To make my own will the author of my obligations seems to leave both their content and their bindingness at my discretion, which contradicts the idea that I am *obligated* by them. If we reply to this obligation by emphasizing the *rationality* of these laws as what binds me, then we by seem to be transferring the source of obligation from my will to the canons of rationality. The notion of self-legislation becomes a deception or at best a euphemism.

If we "abstract from personal differences" when reasoning about ethical issues, argues Kant, we are demonstrating autonomous action.[176] For Rawls, if we make decisions about justice form "behind a veil of ignorance," we are similarly acting fairly and reasonably.[177] An autonomous moral agent does not make decisions that unreasonably favor herself, her family, or her friends.[178]

If I endorse a weak duty to aid the poor because I am well-off, I am allowing a personal characteristic about me to bias my moral reasoning. For Kant, if the moral law is a *common law*,

---

[174] In this paragraph I draw upon Hill, p. 45.
[175] Immanuel Kant, *Critique of Pure Reason* (Cambridge, 1998), A318/B375.
[176] Immanuel Kant, *Groundwork for the Metaphysics of Morals*, translated by H.J. Paton (Harper Press), p. 101.
[177] John Rawls, *A Theory of Justice* (Harvard, 1971), pp. 136-142.
[178] Hill, p. 45.

shared by all citizens, then there exists one moral standpoint which all individuals can endorse. We can read Rawls as offering us a more concrete way of imagining the moral standpoint to which Kant subscribes: By vividly pretending that we do not know our particular demographic traits – our age, our gender, our ethnicity, our class – when theorizing about a just society.

At this point you are surely wondering how *autonomy*, which is loosely described as self-governance, is conceived of by Kant and Rawls as acting impartially when deliberating about moral principles. The answer is found in the Kantian vision of what it means to be properly human. We are most authentically ourselves, according to Kant, when we step back and critically consider the natural and socially-conditioned desires that we have. We must ask ourselves: Do I have a good reason to act on this particular desire? Is this representative of my true person?

I mention this interpretation of "autonomy as impartiality" because it dominates the literature in moral philosophy since Kant, and has deeply influenced Rawls and contemporary Kantians. In a case Rawls draws upon, Kant tells the story of a dutiful subject who is ordered by his king to make a false deposition against another subject. Thus arises a conflict between political and moral duty. The subject correctly chooses the latter on the following grounds, as elaborated by Kant:

> Immanuel Kant, as quoted by John Rawls, "Themes in Kant's Moral Philosophy," from *Collected Papers of John Rawls* (Harvard, 1999), p. 527.
>
> [The subject] judges … that he can do something because he knows that he ought, and he recognizes that he is free – a fact which, without the moral law, would have remained unknown to him.

Rawls explains precisely what make the subject's action appropriately autonomous:

> John Rawls, "Themes in Kant's Moral Philosophy," from *Collected Papers of John Rawls* (Harvard, 1999), p. 527-28.
>
> Kant's aim in these examples is to convince us that although as purely natural beings, endowed with the powers of the rational but not the reasonable, we cannot oppose the love of life, nevertheless we can do so as natural being endowed with humanity, that is, the powers of the reasonable in union with moral sensibility. Moreover, our consciousness of the moral law discloses to use that we can stand fast against the totality of our natural desires; and this in turn discloses our capacity to act independently of the natural order."

Although this is a difficult passage, it shows the influence of this notion of autonomy as acting "independently of the nature order" on modern day philosophers. In *A Theory of Justice,* we also see this Kantian idea of autonomy rearing its head:

> John Rawls, *A Theory of Justice*, rev'd. ver., (Harvard, 1999) p. 452.
>
> Following the Kantian interpretation of justice as fairness, we can say that by acting on [right] principles persons are acting autonomously: They are acting from principles that they would acknowledge under conditions that best express their nature as free and equal rational beings.

A final note on the place of autonomy in philosophical ethics: For Kant and present-day Kantians, including Rawls, autonomy is not merely a desirable value, but the source of the *force of moral claims*. If you were to ask these philosophers – *Why should I act morally?* – they would point to your own particular will as a rational agent. They might say, *YOU have the capacity to self-consciously reflect on your own actions*. We are inherently reflective agents, and it is impossible for you not to make choices that either respect or affront the moral law. Even *inaction* in the face of duty is a volitional choice for which we are culpable. If you want to hear more of this story about "the source of normativity," that is, what precisely makes ethics binding on us, I highly recommend Christine Korsgaard's *The Sources of Normativity* (Cambridge, 1996).

2. Rights-Based Autonomy

A more common interpretation of autonomy in Lincoln-Douglas debates is the right to make decisions that bear on one's own life. On this reading, a government respects its citizens' autonomy insofar as it gives them the opportunity to guide their lives in ways consistent with their conception of a good life. Often debaters talk about *the right to autonomy*, which I presume means the right to a basic set of claims against the state – to make essential life-affecting decisions and to have access to information relevant to making those decisions in an informed, unbiased way.

Judges may find this to be the most intuitive conception of autonomy – *the right to have one's rights respected and protected by the state*. Yet I tend to think that if autonomy is being used this way in a debate round, it is likely unnecessary to mention the word "autonomy," for it is merely a way to smuggle in discussion of the protection of individual rights, a concept which itself needs a great deal of explanation.

3. Autonomy as Authenticity

On this third conception of autonomy, it is not enough for us to be free; we must be living our lives in ways that are authentically our own. We must rightfully claim ownership over our convictions, principles, and values that must exist in order for us to be autonomous. Robert Nozick offers a famous thought experiment in *Anarchy, State, and Utopia* to demonstrate the value of autonomy as authenticity which is worth considering.

> Robert Nozick, *Anarchy, State, and Utopia* (Basic Books, 1974) p. 42-43.
>
> Suppose there were an experience machine that would give you any experience you desired. Superduper neuropsychologists could simulate your brain so that you would think and feel you were writing a great novel, or making a friend, or reading an interesting book. All the time you would be floating in a tank, with electrodes attacked to your brain. Should you plug into this machine for life, preprogramming your life's experiences? Of course while you are in the tank you won't know that you're there; you'll think it's all actually happening. Would you plug in?

I have yet to meet someone who would plug themselves into such a machine. What we can draw from this test of our intuitions is that having experiences that are pleasing is simply not enough.

Even if, when inside the machine, we *felt* all the experiences were genuinely our own, most of us would not opt to enter it. We belief that people must make decisions that shape their own lives, and experiences the consequences of those decisions, and we ourselves want our actions to *matter* in some sense in the world.

The fact that you may have had a dream of winning a particular debate round does not make you any less eager to debate the actual round – even though you have experienced the victory before. This conception of autonomy, it is worth noting, is extremely modest. We share the value that authentic action has more meaning that action done with the assistant of a virtual reality machine.

4. Autonomy as Self-Determination

A final and perhaps most attractive way of fleshing out the value of autonomy is that of sovereignty or self-determination. Autonomy is valuable because it grants individuals the *freedom* to make choices significant in their lives, while it simultaneously demands from them a strapping *responsibility* – that of critically reflecting upon their present life commitments, projects, and values. For the autonomous agent, there is always the potential for revising or even rejecting these commitments, if they are no longer worthy of him or her.

This conception of autonomy is not incompatible with duties to one's family, culture, and country. We can be autonomous while having significant cultural and religious ties, but only if we are capable of considering the justifiability of such ties, and revising them if necessary. I read the philosopher Isaiah Berlin as making an argument for this brand of autonomy in his classic work, *Four Essays on Liberty*:

> Isaiah Berlin, *Four Essays on Liberty*, (Oxford, 1969), p. 131.

> I wish to be the instrument of my own, not other men's, acts of will. I wish to be
> a subject, not an object…I wish to be a somebody, not nobody; a doer—
> deciding, not being decided for, self-directed and not acted on by external
> nature or by other men as if I were a thing, or an animal, or a slave incapable of
> playing a human role, that is, of conceiving goals and policies of my own and
> realizing them.

I think Berlin sketches a viably attainable value that is worth striving for. In an environment that nourishes individual autonomy, by state structures and family institutions, individuals can strive for, and to some extent, live up to this value ideal.

There is a more philosophically careful way of conveying Berlin's appeal to our intuitions about the value of autonomy. We hope to be the kinds of people who examine *and* evaluate our underlying motivations, beliefs and commitments. Why am I debating? In answering this question, are you plumbing to the depths of your motivations and exposing such motivations to critical inquiry?

We are capable, uniquely so among other animals, of forming second-order desires about our first order desires. If someone asked you, *Why did you photocopy my affirmative case and hand it out to my competition?* It would not be enough for you to respond, *I wanted to*. We can form and revise our preferences about our preferences.

What is the value of this noted distinction between our *first-order* and *second-order* desires? To be properly autonomous we must think critically not just about our first-order desires, but also our second-order desires.[179] We must ask ourselves, at this second-level of moral reflection, do I want to be the kind of person who acts unfairly, even maliciously?

It is important to note that this is a <u>procedural</u> conception of autonomy, not a <u>substantive</u> one. This means that we cannot know whether a person is autonomous by simply looking at the values they actually hold. As Gerald Dworkin famously comments, "a person who always does whatever his mother tells him may still count as autonomous."[180] What is relevant is whether people subject their values and beliefs to critical consideration, not the substance of their deepest convictions. This is well summed up by philosopher Joseph Raz:

> Joseph Raz, *Ethics in the Public Domain* (Oxford, 1994), p. 121.
>
> The life of an autonomous person is distinctive not by what it is, but how it has
> come to be what it is. It is marked by the fact that it could have been otherwise
> and became what it is through the choices of that person. It is marked by the fact
> that the autonomous agent had many options which he rejected. To show that a

---

[179] Harry Frankfurt, "Freedom of the Will and the Concept of a Person," in *Moral Responsibility,* John Martin Fischer, ed. (Cornell, 1986).
[180] Dworkin, p. 21.

> person had an autonomous life, we have to look not only at him but also at his
> environment. Concern with autonomy is concern with the environment.

Raz makes two points here which I don't want to get blurred together. First, he observes the procedural way we conceived of autonomy. And second, he is arguing that we cannot judge whether a person is autonomous out of the context of their social context. By his reference to "environment," Raz is emphasizing that unjust institutions, which oppress individuals, may make individual autonomy impossible. Whether someone is autonomous may not be a product of their own choice or incapacity but that of their social structures.

We can also read Rawls's notion of "rational autonomy" as consistent with the view of autonomy presented in this fourth section:

> John Rawls, *Political Liberalism* (Columbia, 1993), p. 76-77.
>
> [C]itizens are rationally autonomous in two ways – they are free within the limits of political justice to pursue their (permissible) conceptions of the good; and they are motivated to secure their higher-order interests associated with their moral powers … Observe that rational autonomy is but an aspect of freedom, and differs from full autonomy.

We are autonomous insofar as (1) we are reasonably free to shape our life plans as we wish and (2) we subject our plans, commitments, and values to moral scrutiny. Rawls contrasts this conception of autonomy with "full autonomy," which is a more demanding criterion for autonomy. In order to be "fully autonomous," in Rawls's view, citizens must publicity recognize the principles of justice in their daily lives, by, for example, voting in ways that are consistent with the demands of justice. Here is the clearest presentation in *Political Liberalism* of what the more strenuous "full autonomy" entails:

> John Rawls, *Political Liberalism* (Columbia, 1993), p. 78-79.
>
> Since citizens' full autonomy is expressed by acting from the public principles of justice understood as specifying the fair terms of cooperation they would give to themselves when they are fairly situated, their full autonomy is modeled by how the original position is set up … Citizens realize that autonomy by acting from the political conception of justice guided by public reason, and in their pursuit of the good in public and nonpublic life.

Autonomy as self-determination, as I have sketched out here, is a value endorsed on the grounds that it holds that essential freedoms be given to the individual – to form, act upon, and revise one's vision of a good life – and it requires that the individual engage in the work of second- order reflection on the justification of that very vision.

202

Indeed, autonomy is a value underlying the very institution of public debate, particularly Lincoln-Douglas Debate. The premise behind debating topics of moral and political urgency is that these debates *matter*, that rational discussion of public issues has the power to change society, but just as much so, to transform those who participate in the debate. The author and playwright James Baldwin conveys the way education aims towards the development of autonomy:

> James Baldwin, "A Talk to Teachers," in *Multicultural Literacy*, ed. by Rick Rimonson (St. Paul, 1988), p. 4.
>
> The purpose of education … is to create in a person the ability to look at the world for himself, to make his own decisions, to say to himself this is black or this is white, to decide for himself whether there is a God in heaven or not. To ask questions of the universe, and then to live with those questions, is the way he achieve his identity.

Further Reading

Dan-Cohen, Meir. "Conceptions of Choice and Conceptions of Autonomy," *Ethics* Vol. 102, January 1992.

Dworkin, Gerald. *The Theory and Practice of Autonomy* (Cambridge, 1988).

Elster, Jon. *Ulysses and the Sirens* (Cambridge 1983).

Frankfurt, Harry. "Freedom of the Will and the Concept of a Person," in *Moral Responsibility,* John Martin Fischer, ed. (Cornell, 1986).

Raz, Joseph. *The Morality of Freedom* (Oxford, 1986).

Schneewind, J.D. "Autonomy, Obligation, and Virtue: An Overview of Kant's Moral Philosophy," from Paul Guyer (ed.) *The Cambridge Companion to Kant* (Cambridge, 1992).