

Chapter 4

Moral Duty, Rights, and Justice

Deontological Approach to Ethics

- Actions are morally right or wrong independent of their consequences.
- Denies the utilitarian claim that the morality of an action depends on its consequences.
- Moral rightness and wrongness are basic and ultimate moral terms. One's duty is to do what is morally right and to avoid what is morally wrong, regardless of the consequences of so doing.

Kantian Moral Law

- Because the moral law is a law, it issues a command or states an imperative—something that must be done. The imperative is an unconditioned one. It states what everyone is to do because it is a command of reason.
- The moral law binds unconditionally. Kant called the statement of the moral law, or of the supreme principle of morality, the Categorical Imperative.
- In contrast, a *hypothetical imperative* states that an action should be done if, or on the hypothesis that, one wishes to achieve a certain end. Thus, “If you wish to do well in school, study!”

Formalist Ethical Approach

- An action is morally right if it has a certain *form*; it is morally wrong if it does not have that form.
- The moral law at its highest and most general level states the form that an action must have to be moral.
- But the moral law at this level, or the highest principle of morality, does not state what content an action must have to be a right action. It states only the form the action must have.
- Such an approach is therefore called a *formalist ethical approach*.

Kantian Moral Law

- For an action to be a moral action:
 - it must be amenable to being made consistently universal;
 - it must respect rational beings as ends in themselves; and
 - it must stem from, and respect, the autonomy of rational beings.

Consistency in Universalization

- Seeks to ensure that the rule, principle, or maxim of the action is internally consistent when made universal.
- Since the test is a logical or conceptual one, it does not depend on the factual question of whether everyone does or would do the action.
- Kant's condition of consistent universalization:
“Act only according to that maxim by which you can at the same time will that it should become a universal law.”

Respect for Rational Beings

- “Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only.”

Autonomy

- Three aspects of morality are captured in the notion of autonomy: freedom, the self-imposition of the moral law, and the universal acceptability of the moral law.
 - This freedom, which we can call the *rational freedom of self-determination*, becomes moral freedom when we choose to act in accordance with the moral law.
 - The second aspect of autonomy emphasizes the fact that moral beings give themselves the moral law. As ends in themselves, moral beings are not subservient to anyone else.
 - The third aspect of autonomy, the universal acceptability of the moral law, is a function of the fact that moral beings give themselves the moral law. The test is whether all rational beings, thinking rationally, should accept it regardless of whether they were the agents or the receivers of the actions.

Special Obligations

- We can divide special obligations into a great many kinds; three are of particular importance:
 - those obligations that come from special relations;
 - those obligations that come from particular actions we perform; and
 - those obligations that come from the particular roles we occupy.

Moral and Civil Rights

- Rights are sometimes divided into negative and positive.
 - *Negative rights* require others to forbear acting in certain ways and to allow the bearer of the right to act without impediment.
 - *Positive rights*, on the other hand, require either the government or other individuals to provide the bearer of the right with certain positive goods or opportunities.
- *Moral rights* are important, normative, and justifiable claims or entitlements. Moral rights also carry with them moral obligations.
- *Civil rights* are legal rights, and typically they apply to citizens and not to all human beings.

Theories of Justice

- There are different kinds of justice.
 - *Compensatory justice* consists in compensating someone for a past injustice or making good some harm he or she has suffered in the past.
 - *Retributive justice* concerns punishment due a lawbreaker or evildoer.
 - Procedural justice is a term used to designate fair-decision procedures, practices, or agreements.

Types of Procedural Justice

- Commutative justice demands that equals be exchanged for equals. Since commutative justice refers to justice in transactions or exchanges, it is of great importance in business.
- In general, an exchange or transaction is just or fair if both parties to the transaction:
 - have access to all the pertinent information about the transaction;
 - enter it freely and without any coercion; and
 - benefit from the transaction.

Types of Procedural Justice

- The contemporary American philosopher John Rawls formulated an influential theory of *distributive* justice.
 - Each person is to have equal right to the most extensive basic liberty compatible with similar liberty for others.
 - Social and economic inequalities are to be arranged so that they are both
 - a. reasonably expected to be to everyone's advantage; and
 - b. attached to positions and offices open to all.

General Application of Rights and Justice

1. State clearly the moral issue to be resolved and whether it involves claims of justice or rights.
2. In some cases, both sorts of consideration are present. If so, can you either translate the moral norm expressed in rights terms into justice terms or vice versa? If you can, do so.
3. If rights are the dominant consideration, then determine about each right:
 - a. Is it widely accepted and acknowledged as a right? If not, how can it be defended?
 - b. Who holds the right and against whom is it exercised in this case?
 - c. What obligation does it impose on the one against whom it is exercised?
 - d. Is there more than one right present in the case, and if so, do they conflict?
4. If the rights conflict, determine which is most important and should take precedence in this case, presenting the reasons for that precedence.

General Application of Rights and Justice

5. Having determined the dominant right in the case, is there any reason to think it might be overridden by other considerations? If so, consider them. If not, apply the right in question.
6. If justice is the dominant consideration, determine which kind of justice is pertinent.
7. If distributive justice or questions about the ordering of society or law are in question, apply Rawls's two principles.
8. If other types of justice are at issue, go behind an imaginary veil of ignorance and ask whether all affected parties, if they did not know whether they were on the giving or receiving end of the action (or transaction or practice), if they were adequately informed with the appropriate information, and if they were thinking as rational people, would view the proposed action as acceptable. If so, the action is thus far just. If not, it is not just.
9. Determine whether there are other considerations, consequences, or circumstances that mitigate or change the application of that judgment. If so, settle these to determine whether the action is just. If there are none, the previous conclusion stands.