



Rawls and Public Ethics

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Introduction



Individual Morality

Social Justice

Deontological vs. Utilitarian

Public vs. Private

Substantive vs. Procedural

Deontological Values vs. Utilitarian Values

✧ Utilitarianism

- ✧ John Stuart Mill & Jeremy Bentham
- ✧ Focuses on the *effect* or *consequence* of an action
- ✧ Happiness Centered Principle: “Maximize Aggregate (or Average) Utility (happiness)”

✧ Deontology

- ✧ Immanuel Kant
- ✧ Focuses on the *intent*, or the *nature* of an action
- ✧ Agent Centered Principle: Every rational moral agent is entitled to equal consideration and special protection as a rational moral agent.

Aristotelian Virtue Theory, Egoism, Relativism etc...

Political Theory



- ✦ Modern western liberal political theory:
 - ✦ Presumption for Foundational value of freedom or liberty
 - ✦ Imposition of a state a categorical assault on individual liberty
 - ✦ Such imposition must withstand very strict scrutiny for legitimacy
 - ✦ Consent of the governed is vital

Historical Theories of Consent



- ✦ Hobbes: egoistic self-interest maximization.
- ✦ Locke: Implicit consent due to the acceptance of the benefits of cooperation
- ✦ Rousseau: Direct democracy
- ✦ Utilitarianism: Consenting to sovereign governance a utility maximizing action
 - ✦ Problem: Permits clearly unjust governance models if they are utility maximizing (slave state).

Deontological Difficulties



- ✦ Rawls: utilitarianism fails to “take seriously the distinction between persons.” (1971, p. 24)
- ✦ Deontology emphasizes the need for consent.

“[E]ven if everyone acts fairly as defined by the rules that it is both reasonable and practical to impose on individuals, the upshot of many separate transactions will undermine background justice. This is obvious once we view society, as we must, as involving cooperation over generations. Thus even in a well-ordered society, adjustments to the basic structure are always necessary. What we have, in effect, is an institutional division of labor between the basic structure and rules applying directly to particular transactions.” (1977, p. 164)

“The principles of justice for institutions must not be confused with the principles which apply to individuals and their actions in particular circumstances. These two kinds of principles apply to different subjects and must be discussed separately.” (1971, pp. 54-55)

Public vs. Private Normative Arenas

✧ Arena of individual action

- ✧ Covered by traditional ethical theory.
- ✧ Applies to, and holds morally accountable only individuals
- ✧ Subject to *private values*
- ✧ Values not constrained by neutrality requirements.

✧ Arena of Social Justice

- ✧ Covered by newly formulated theory of social justice.
- ✧ Applies to and holds morally accountable, only institutions of governance.
- ✧ Subject to *public values*
- ✧ Values constrained by strict neutrality requirements

First Principle of Justice



- ✦ “Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.”

Moral Pluralism



1. Contingent social circumstances:

- ✦ Rich or poor, Black or White, male or female, handicapped or not handicapped, gay or straight, etc...

2. Individual conceptions of the good:

- ✦ Religious doctrines, moral doctrines, cultural conceptions, personal priorities (surfer vs. CEO)
- ✦ The “problem of moral pluralism.”

Public Reason

(As a Response to the Problem of Moral Pluralism)

- ✦ Social justice neutralizes contingent social
- ✦ “It is unreasonable for citizens to attempt to impose what they see as the whole truth on others—political power must be used in ways that all citizens may reasonably be expected to endorse. [...] In essence, public reason requires citizens to be able to justify their political decisions to one another using publically available values and standards.” (Lief Wenar, 2008)

conception of the good.

The Second Principle of Justice

- ✦ Though strict, the neutrality requirements of public reason do not amount to the demand for complete equality.
- ✦ Rawls takes inequality as input, imposes the neutrality demands of public reason, and derives the second principle of justice:
- ✦ Social and economic inequalities are to satisfy two conditions:
 - ✦ They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
 - ✦ They are to be to the greatest benefit of the least-advantaged members of society (the difference principle).

Deontology as a Personal Conception of the Good

- ✦ Difficulty for the theory: comprehensive moral theories such as utilitarianism, egoism, relativism, and deontology count as private conceptions of the good.
- ✦ Addressed by:
 1. Minimizing his deontological value commitments and constructing a new moral framework
 2. Developing the theory by relying on maximally neutral *procedural values*, not additional, possibly controversial *substantive values*.

Substantive vs. Procedural Values

✧ *Substantive Values:*

- ✧ Make substantive claims about the value or disvalue of specific states of affairs in the world.
 - ✧ “A full house is a good poker hand”
- ✧ Substantive basis is vulnerable to controversy—*non-neutral*
 - ✧ “Billy is a fair pie-cutter”

✧ *Procedural Values:*

- ✧ Only make claims about the fairness of procedures.
 - ✧ “A blind and thorough shuffle will make for a fair deal.”
- ✧ Rational basis is less controversial—*more neutral*
 - ✧ “One divides and the other chooses” All the rational incentives are preset for a fair outcome.

The “Original Position”

SUBSTANTIVE BASES OF PROCEDURAL DESIGN:*

INPUT

Contingent facts about the world relevant to questions of justice such as facts about basic human needs and scarcity of resources.

Rationality, Liberty, Equality

Veil of Ignorance

Procedure

Screens off irrelevant contingent facts from influencing either design or output.

OUTPUT

Procedural and substantive judgments about justice.
Completely or partially screened off from all substantive and/or contingent input by the procedural bottleneck.

*The procedure is designed to mitigate these substantive values by forcing them into logical/procedural relations with each other. Thus the value of liberty is mitigated by the values of rationality and equality etc...

Three Values Distinctions

Deontological vs. Utilitarian

Inherent Value of Agents vs. Consequentialism

Represents intuitive tension between aggregate well-being and individual rights as normative foundations

Public vs. Private

Subject to strict neutrality requirements vs. not subject to neutrality requirements

Represents the differing role that values play in the distinct normative arenas of social justice and individual ethics

Substantive vs. Procedural

Establishes fair rational procedure vs. substantive normative judgments about states of affairs in the world

Procedural values are particularly well suited to the public arena due to their rational roots and resulting normative neutrality

Initial Lessons



- ✦ Distinguishes public ethics as a unique ethical line of inquiry distinct from organizational, business or professional ethics.
- ✦ Distinguishes two kinds of public ethics problems:
 1. Conflicts between public and private values (conflicts of interest, corruption, personnel issues, appearances of impropriety etc...)
 2. Conflicts between exclusively public values (public policy decisions)

Intuition Testing

✦ *intuitive ideal vs. perceived actual* relative importance

- ✦ Accountability
- ✦ Effectiveness
- ✦ Citizen's Liberty
- ✦ Transparency
- ✦ Professionalism
- ✦ Fairness
- ✦ Resource (Economic) Stewardship
- ✦ Objectivity (Equality)
- ✦ Efficiency

- ✦ Rating 10 means it is an almost inviolable value. It can only rarely be overridden if an overwhelming preponderance of multiple other considerations push against it.
- ✦ Rating 8 means it is a fundamental value, but one that can occasionally be outweighed by a preponderance of other considerations.
- ✦ Rating 6 means that it is a central value, but it is probably one of a number of such central values, a stronger case for any one of which might outweigh this value.
- ✦ Rating 4 means it is an important value, but only occasionally decisive.
- ✦ Rating 2 means it is a relevant value, but rarely decisive given that other values can easily swamp its importance.
- ✦ Rating 0 means it is a relevant, but only peripherally. This is a value that might be consulted as a tie-breaker, but not much more.

Intuition Survey

Value		Intuitive Ideal Ranking	Perceived “Actual” Ranking
Util. Values	Effectiveness		
	Efficiency		
	Resource (Economic) Stewardship		
Deont. Values	Citizen’s Liberty		
	Objectivity (Equality)		
	Fairness		
Proced. Values	Transparency		
	Accountability		
	Professionalism		