

Social Contract Theory

What's the Key to Understanding Ethics?

- Some say
 - ethics found in an appeal to God
 - ethics found in altruistic behavior and seeking the good of humankind overall
 - ethics found in laws of reason and rationality
- But, what happens to ethics if either these things don't exist or these things presuppose a state of affairs in which they can operate?

Social Contract Theory

- Ethics derives from the rules necessary for having a peaceful, cooperative social order
- If there were no social order, then there would be no system in which humans could flourish and in which ethical rules could operate
- How does this social order arise? What is its structure?

State of Nature

- Imagine that there is no government
 - No police
 - No laws
 - No courts
- What would this world look like? How would we be living in it?

State of Nature: A Rough Neighborhood

- Living in a state of nature would be bad
 - Not because people are bad in and of themselves
 - It would be bad because of the nature of human existence combined with human nature
- What is Hobbes's perspective on human motivation and behavior?

Hobbes's Theory of Human Motivation

- Psychological Egoism: the theory that all human actions are motivated by self-interest
- Rational beings: humans have the capacity to pursue their desires as efficiently as possible and to maximize those interests
 - Rationality is instrumental--it serves a purpose but is not anything more than the purpose it serves
 - Rationality is a means to fulfill one's self-interests
- Universal claim: meant to cover all actions in all circumstances, in and out of society

State of Nature, I

- Hypothetical state in which,
 1. Humans are fundamentally self-interested
 - We are not altruistic
 - We cannot trust others to help us out
 2. Humans are basically equal to one another in our needs
 - We each need the same basic things to survive: food, shelter, clothing

State of Nature, II

3. There are limited resources
 - We do not live in a bountiful world with unlimited resources
 - We need to work in order to survive and to produce what we need
4. No one person is so powerful in strength or intelligence that he will dominate indefinitely
5. There is no power to force humans to cooperate
 - Since we are individuals in a state of nature, there is no central authority who demands our obedience or allegiance

Consequences of State of Nature

- We all basically need the same things and these things are in short supply
- Everyone always lives in fear of losing life and property
- No ability to guarantee long-term satisfaction of needs and desires
- Ultimate distrust leads to lack of cooperation
- We live isolated, solitary lives
- We will live in a “constant state of war, of one with all”

Escaping the State of Nature

- To escape the state of nature, individuals must find a way to cooperate with one another
- Cooperation allows individuals to form groups to produce and distribute goods and resources
- In order for this to happen, there must be
 - guarantees that individuals will not harm one another
 - agreements among individuals to keep their contractual obligations

Three Laws of Nature

- The three laws of nature are key to the formation of government
- Law 1: Seek Peace
- Law 2: Give Up What is Necessary to Obtain Peace
- Law 3: Justice

Law 1: Seek Peace

- “And consequently it is a precept, or general rule of reason, that every man, ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, he may seek, and use, all helps, and advantages, of war. The first branch of which rule, contains the first, and fundamental law of nature; which is, to seek peace, and follow it. The second, the sum of the right of nature; which is, by all means we can, to defend ourselves.”
- To obtain this first law, rational beings will enter a contract
- Entering a contract offers a better life than living in a State of Nature

Law 2: Give Up What is Necessary to Obtain Peace

- “From this fundamental law of nature, by which men are commanded to endeavour peace, is derived this second law; that a man be willing, when others are so too, as far forth, as for peace, and defence of himself he shall think it necessary, to lay down this right to all things, and be contented with so much liberty against other men, as he would allow other men against himself.”
- Law 2 is one of two aspects of the Social Contract
- Upon entering into the contract, each member agrees to relinquish certain rights that were held in a state of nature
- If members were to refuse to give up their State-of-Nature rights, then there could be no reason for anyone else to enter the contract

Law 3: Justice

- “From that law of nature, by which we are obliged to transfer to another, such rights, as being retained, hinder the peace of mankind, there followeth a third; which is this, that men perform their covenants made; without which, covenants are in vain, and but empty words.... And in this law of nature, consists the fountain and origin of JUSTICE.”
- Law 3 is the second aspect of the Social Contract
- If there is to be a society, then someone has to be given the power and authority to enforce the contract
- To escape the State of Nature, each person has to agree to live under enforceable laws
- It is in each person’s self-interest to conform to the conventions of justice

Need for Authority--Who is to Judge?

- We need authority to help each individual decide upon competing claims
- In moral, legal, or property disputes, an authority is needed to decide matters between individuals or groups
- It is only in the presence of rules and authorities who enforce those rules that one can escape the state of nature
- Government is an essential part of the equation to escape the state of nature
- The agreement to “play by the rules” in a civil society is called the Social Contract

The Social Contract

- Social Contract is an agreement to which every citizen is a party
- Social Contract explains the purpose of the state
 - Purpose of the state is to enforce the set of rules necessary for social living
- Social Contract also explains the nature of morality
 - Morality consists in the set of rules which make social living possible

Contract and Human Interests

- Morality, politics, society, et al. are created to serve humanity's interests
- Prior to the contract, there is no justice or injustice, good or bad
- After contract, justice serves to prevent a reversal into a State of Nature
- Social Contract is the foundation for all that is good and the basis for living well
- Only under the Contract can one afford to care for others; altruism becomes possible in a social context

In a Nutshell

- The Social Contract's conception of morality consists in
 - a set of rules
 - that govern how people act and treat one another
 - that is accepted by rational people seeking their self interests
 - and is entered into with the understanding that others will follow the set of rules for basically the same reasons

Return of the Prisoner's Dilemma

You have just been arrested for committing a horrible crime. Arrested at the same time and for the same crime is your associate. You are both being interrogated separately and neither of you knows what the other is saying.

- You and the other suspect both know that if neither of you confess, the case is weak and each of you will receive a minor sentence on lesser charges. In this case, the sentence is only 5 years in prison.
- If you both confess, then you will be convicted of the crime and each will receive 20 years in prison.
- If only one of you confess and testifies against the other, the one who did not cooperate will get life in prison and the one who confessed will go free.
- What would you do? Would you confess? What is in your best interest? What is in your associate's best interests?

Prisoner's Dilemma Matrix

Strategies and Consequences

		Your Associate	
		Don't Confess	Confess
YOU	Don't Confess	5 yrs. / 5 yrs.	Free / Life
	Confess	Free / Life	20 yrs. / 20 yrs.

Return of the Prisoner's Dilemma

- Given the payoff, each should confess. The case tells us that one's self-interests trump group interests. One is better served by seeking one's self-interest than by doing what is in the interest of the group.
 - If both of you confess, then you will each get 20 years
- But, if each of you had done the opposite of what was in your self-interest, then you both would have been better off (only 5 years)
 - You'd be better off not pursuing your self-interest. Cooperation would yield the best alternative for you both
- In order for cooperation to work and for it to be rational for you to enter into such an agreement, each of you will have to be bound to fulfill your agreement

Real Life Prisoner's Dilemma

- Prisoner dilemmas occur in real life when two conditions are met:
 - The situation must be such that people's interests are affected by what they do and what others do
 - The situation is one in which each person is worse off by pursuing one's own interests than that person would be if he had not pursued his own interests

Advantages of Social Contract Morality, 1

1. Social Contract theory tells us what rules we are to follow and why those rules are justified

- Morality consists in those rules that are necessary for social living
 - Common rules in which all societies depend include: prohibitions on murder, lying, fraud, breaking promises, assault, etc.
 - These rules are justified simply because they enable social living
- Some rules are not justifiable in the same way and are not part of the social contract
 - E.g., prohibition of prostitution, sodomy, gay marriage, etc.
 - These rules do not threaten any person in living a safe, secure life within the society
 - These rules are not derived from the social contract and are not under the umbrella of morality

Advantages of Social Contract Morality, 2

2. Social Contract theory tells us why it is reasonable to follow these rules

- It is to our own advantage to follow these rules because we personally benefit from living in a society in which these rules are in effect
- We want a contract that demands that people adhere to the rules except in extraordinary circumstances
- Only by living in a system in which the rules are in effect and obedience is demanded will we feel safe

Advantages of Social Contract Morality, 3

3. Social Contract tells us the circumstances in which we are allowed to break the rules

- We agree to obey the rules on the conditions that others obey the same rules
- If one fails to obey the rules, then we are freed from our obligation (to some extent) from following the rules with respect to that person
- Social Contract requires that rule breakers be punished. Why is it permissible to punish?
 - Permissible to punish because the rule breaker has violated the rule of reciprocity: we abide by the rules that restrict our freedoms under the agreement that others accept the same restrictions
 - Once one breaks the rules, we are no longer obligated to treat them according to the rules--we can punish them for their violation of the rules

Advantages of Social Contract Morality, 4

4. Social Contract tells us about the objective basis of morality

- Objective basis of morality is simply the rules that rational people would agree to accept for their mutual benefit
- Rational investigation tells us what those rules are
- An act is moral if it conforms to the rationally determined set of rules necessary for beneficial social living

Problems with the Social Contract

1. How should we act toward those who are not in the contract
2. Civil disobedience

1. How Should We Act Toward Those Who Are Not in the Contract

- Nonhuman animals cannot enter into the Social Contract, implicitly or explicitly
- Animals are not part of the mutual benefit agreement. So, why be moral to them?
 - Would torturing animals for fun be morally permissible?
 - Hobbes thought we could not make a contract with animals
- What about our duties to severely retarded humans?
 - Can we torture them too, since they appear incapable of entering or abiding by the contract?
- The Social Contract theory appears flawed, if it cannot explain why we should treat nonhumans or retarded humans the same as those who are in the contract

2. Civil Disobedience

- Social Contract places on us an obligation to obey the law
- Are we ever justified in disobeying the law?
- Hobbes thought not, with minor exceptions
- Locke thought we were justified in disobeying authorities in those cases where the authorities were no longer upholding the rights of the citizens

Hobbes on Absolute Power

- Sovereign has absolute power in almost all matters (27)
 - A subject can be put to death by the sovereign without any concerns of acting justly; the sovereign can do no wrong
 - The sovereign is granted power by the subject, so the subject cannot question or undermine the power he granted
- Exceptions: (29)
 - Sovereign cannot force a subject to accuse himself
 - Sovereign cannot force a subject to kill himself
 - Sovereign can demand one to kill another only if the command is in accordance with the ordained ends of the sovereign (29)

Civil Rights Movement

- Civil rights movement of U.S. did not object to the American government
- Civil rights movement opposed certain laws and social policies which they thought unjust
- Those participating thought the racial segregation laws were so unjust that they had no obligation to obey these laws
- As far as democratic change, most thought that was impossible given blacks were prevented from registering to vote
- Was civil disobedience justified?

Waldman's Response to King

- “Those who assert rights under the Constitution and the laws made thereunder must abide by that Constitution and the law, if the Constitution is to survive. They cannot pick and choose; they cannot say they will abide by those laws which they think are just and refuse to abide by those laws which they think are unjust.... The country, therefore, cannot accept Dr. King's doctrine that he and his followers will pick and choose, knowing that it is illegal to do so. I say, such a doctrine is not only illegal and for that reason alone should be abandoned, but that it is also immoral, destructive of the principles of democratic government, and a danger to the very civil rights Dr. King seeks to promote.”

Louis Waldman, attorney

Why Do We Have an Obligation to Obey the Law?

- We have an obligation to obey the law because we participate in an agreement that provides benefits in return for restricting some liberties
- What happens if one person or one group receives no benefits?
- What happens if the benefits are unfairly distributed?
- What if one's rights are violated?
- Do we still have an obligation to obey the law?

Terms of Contract Null and Void

- If those, or some subset of those, under the contract are systematically deprived of the rights which the contract is supposed to provide and/or protect, then one might think the terms of the contract are not being honored
- If we demand that those not being served by the contract still have to adhere to the terms, then we are advocating injustice under the contract
- The disenfranchised are released from the terms of the contract whenever the contract fails to provide a fair share of benefits for social living
- So, instead of civil disobedience being a problem for the Social Contract, it reveals the strength of the Social Contract

Locke's Justification for Resisting Government Powers

- Subjects are justified to return to a State of Nature if the government becomes tyrannical and denies the members their rights, liberties, and property
- Failure to allow subjects to make their own laws would be justification
- If government fails to protect that which it was created to protect, then the government's authority can be resisted
- It appears that Locke wants to admit that not only do subjects have the right to resist, but also the moral obligation to resist when government fails its duty