

Ethics and Criminal Justice - CJ 332

Mr. Miller

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Introduction: Ethics is a branch of philosophy that hopes to bring systematic reason to bear on human decision making. This course accepts ethical pluralism as an assumption and takes a dialog as its method for inquiry. It's search is for a **satisfactory** theory that accommodates diversity and universality at the same time.

Outcomes: As a result of this **course** students will

1. Deepen their understanding of ethical diversity.
2. Exercise **critical** thinking and writing skills.
3. Deepen skills of dialogue, intellectual exchange.
4. Sharpen and **clarify** their own moral and ethical commitments.

Reading Ethics in Crime and Justice

Shifting Lens

Weekly Handouts

Method: Text based inquiry and seminar.

Video and film will be used to supplement discussion.

Requirements:

Weekly 1 page **reflection** in readings or questions raised in class.

Take home Mid-term and final essay.

SCHEDULE:

April 9.....	Introductions: Ethical origins: Tribal Ethics Cultural relativism
April 16.....	Pollock:Chapter 2, Virtue Ethics Cultural relativism part two.
April 23.....	
April 30.....	Psychology Moral Development Pollock: Chapter 3 Emotivism, Subjective theories
May 7	Objective approaches Karat and Hobbes Theories of retribution and Deterrence Pollock: Chapter 9
May 14.....	Law and Ethics Pollock: ch. 4 and 5
May 21.....	Professional Ethics Pollock:Chapter 7 and 8
May 28.....	Shifting Lens A critical view
June 4	Ideologies and Myth Making Pollock: Ch. 11
June t 1..... Final Exam

ETHICAL SYSTEMS

DESCRIPTION	STRENGTH/WEAKNESS	EXAMPLE
ETHICAL RELATIVISM No principles are universally valid. All moral principles are valid relative to cultural tastes. The rules of the society serve as a standard.	S- Brings about tolerance of other cultures. Keeps societies from falling apart. W- Confuses what ought to be done with what is currently done.	South Seas Islanders practice cannibalism. Cannibalism is strictly prohibited in the U.S.
DIVINE COMMAND THEORY Moral standards depend on God who is all-knowing. Any act that conforms to the law of God is right; an act that breaks God's law is wrong.	S- Standards are from a higher authority than humans. Gives reasons why man should behave morally. Gives worth to all equally. W- Can be arbitrary depending on interpretation. Can we know the true divine authority?	Christian religions point believers to rules like the Ten Commandments.
UTILITARIANISM Actions are judged right or wrong solely by their consequences. Right actions are those that produce the greatest balance of happiness over unhappiness. Each person's happiness is equally important.	S- Promotes human well-being and attempts to lessen human suffering. W- One person's good can be another's evil. Hard to predict accurately all consequences.	The U.S. dropped the atomic bomb on Japan in WWII believing it was worth the loss of life to gain the end of the war and stop the higher loss of life if the war continued.
DEONTOLOGY Emphasis is on moral rules and duty. If not willing for everyone to follow the rule, then it is not morally permissible. Emphasis on autonomy, justice and kind acts. People treated as ends, never means.	S- It provides a special moral status for humans. Moral rules are universal. W- It says nothing about other living things. Rules can be abstract.	In the U.S. a continued emphasis on human rights for all people stems from a willingness to reason that justice and equal treatment ought to be applied universally.
VIRTUE ETHICS Morals are internal. It seeks to produce good people who act well out of spontaneous goodness. It emphasizes living well and achieving excellence.	S- It internalize moral behavior. W- Offers no guidance for resolving ethical dilemmas.	A faculty determines that a student council officer with a genuine interest to serve deserves more recognition than one who just wants to beef up his resume.

Ethics: Summary of Terms and Issues:

Axiology From the Greek word 'axios' meaning "worth," and 'ology' meaning "the study of." Hence, axiology is a branch of philosophy that studies the nature of values and value judgments.

Eg. The following are axiological questions: "Are some values more ultimate than others? Are there some values all people ought to have? Can value discussions be objective in some sense? Can values be reasoned about? Can we learn about values the same way we learn about facts?"

Ethics A branch of axiology that studies questions of right and wrong (actions, behaviors, attitudes, character traits); in other words, philosophical thinking about moral problems.

E g s . Whether or not a women should have the unlimited right to an abortion.
Whether or not a biotechnology company should be allowed to patent a form of life.

Whether or not parents have a right to genetically engineer their children.

Fact/Value distinction: (Is/Ought)

Most philosophers, philosophers of science, and logicians believe that we should make a clear distinction between facts and values. To say that "Human beings sometimes kill other human beings." is a factual description; to say that "It is wrong for human beings to kill other human beings." would be a value judgment, in this case a moral one.

Here are some more examples:

Facts	Values
Human beings are curious	Human beings ought to be curious.
Jones is six feet tall.	Jones is a good man.
Most people keep promises.	Promise keeping is right.
Many people seek pleasure.	Happiness is seeking the maximum amount of immediate pleasure.

Descriptive ethics: an anthropological description of the ethical systems that people have in different cultures, and/or a theory of human nature that attempts to explain why people behave as they do..

E g s . Anthropologists have described the following as facts: in some cultures a husband has a right of life and death over his wife; in others it is the duty of a child to kill his parents before they are old; in some infanticide (usually the killing of baby girls) and polygamy are common.

2. **Judgments of moral value** -- normative judgment concerning character and motives.

E.g. We might judge a particular action to be good, but believe the motive for doing the action bad. Or vice versa. For instance, how would you evaluate the behavior of a person who lied to protect a friend from going to prison?
3. **Judgments of nonmoral value** -- includes all value judgments, including what we have called **cognitive**, judgments concerning what we ought to value in seeking knowledge (Should we value simple theories or theories with a lot of inductive evidence. Should we value theories that make spectacular predictions over those which have lots of mundane empirical evidence? Should we value theories that are mathematically elegant?) See Chapter 5, *Pine* for a discussion of the role played by the search for simple, elegant models of planetary motion.

Basically judgments of **nonmoral value** involve considering what is good, and moral value judgments involve considering what is right. So moral value judgments will always involve determining what is of nonmoral value. In other words, we must have a general conception of what is good before judgments of right and wrong are possible.

THEORIES OF OBLIGATION

The ultimate concern of a theory of obligation is finding guidelines for decisions and judgments about **actions** in particular situations. Such a theory will involve not only what "we" should do but what "others" should do as well. For instance, a theory of obligation would have something to say in terms of general guidelines about such particular concerns as, "Should the government be allowed to spend tax money on genetic research to make dangerous biological weapons?" or "Should I donate part of my liver to my child?" There are two basic types of obligation theories: teleological theories and deontological theories. Teleological theories focus on the results of actions; whereas deontological theories are more concerned with principles.

I. Teleological theories:

All teleological theories argue that the ultimate standard of what is morally right, wrong, or obligatory is the **nonmoral value** (how much good is) brought into existence. Put simply, if you want to know whether an action is right or not, the questions to ask are, "What will be the results of the action? Will the results be good or not?" Hence, teleological theories depend on answering the questions of what is good and whether or not the actions or principles of action promote good or not. Here are some examples:

Ethical egoism argues that everyone should act and/or judge by the standard of what is good for our own long run advantage; that each person ought to do what will promote his or her own greatest good. This theory usually presupposes a view known as **psychological egoism** -- the view that we are by nature selfish anyway, that we always act in accordance with our own self-interest anyway, so why fight it. So, in short this theory claims that we not only do act in terms of our long term interest, we ought to as well. It is bad and dangerous to pretend that we don't act selfishly or to try to go against our nature.

we use them to make particular judgments. (For instance, one who accepts the Ten Commandments of the Old Testament as absolute would be a rule-deontologist.)

Here are some famous examples of deontological theories:

Divine Command Theory:

This theory presupposes a loving and benevolent God and argues that there is only one rule we need to know and follow: what ultimately makes an action right or wrong is its being commanded or forbidden by God and nothing else. Followers of this theory usually believe that God's existence and His sanction of certain actions as moral are the only basis that some value judgments can be justified against relativism. Ultimately there has to be a final reason for why some ways of life are absolutely better than others. Only God's existence and His wishes can stop the justification process.

Philosophers generally have problems with this theory, not because they do not believe in a Supreme Being (many do), but because of the unanswered questions it fails to address.

1. How do we know what God commands or forbids? There are many religions and many interpretations of the Bible. Who makes the choice as to the right interpretation? For instance, some Christians believe that homosexuality is clearly immoral because it is disapproved of by God. But on the other hand, there are homosexual groups that have formed Christian churches and do not believe that God disapproves of the gay relationships. How do we decide whose reading of the Bible is correct?
2. Ironically, many versions of this theory seem to presuppose ethical egoism! If the rationale for doing what God commands is that we will be rewarded eventually, then we are doing what God wants us to do for selfish reasons. Is this attitude consistent with the emphasis on love and care for others?
3. If we are not doing what God commands for purely selfish reasons, then we are doing it because it is best or good to do what God commands. But then we are back to the original question of all morality, "why is it good to do certain things and bad to do others?" As Socrates made clear to Euthyphro many centuries ago (see Pine, p. 116), do we do what God commands just because He commands it, or because it is the best thing to do? If only because He commands it, then it is possible that what He commands us to do is wrong. If He always commands us to do only that which is good, then why is it good?

If the answer to all these questions is that we should just trust God and stop asking silly questions, then one has decided to no longer do philosophy, because philosophy presupposes that a reflective morality (a rationally examined life) is worth doing; that God, if He exists, surely wants us to use our reasoning ability (which He has given us) to live better lives. If we are just going to follow a certain path without knowing why -- without knowing the rational objective reasons -- then this position is no different than relativism. Both absolutism and relativism tell us that thinking about the justification for an action is useless.

For instance, some philosophers have argued that pleasure is intrinsically good, that it is just good-in-itself. These philosophers will argue that pleasure is not something we can or should argue about further, we just know in a self-evident way that it is good. We might argue about whether something is pleasurable, but once we agree that it is, it would be silly these philosophers say to argue about whether we should value pleasurable. Other philosophers will argue that pleasure is only an instrumental good, that we desire it because it is one way or instrument for achieving happiness.

For an example of the difference between a justification that relies on an intrinsic good or an instrumental good, consider that many people today believe that it would be wise for us to protect our environment and promote the welfare and survival of other species of life. An instrumental justification would be that we should do this as a means to the goal of promoting our own welfare and survival. We are promoting genetic diversity not because this act is just right in-itself, but because it helps support something else that we believe is really right. On the other hand, many animal rights activists do not like this justification at all, even though it justifies something they want supported. They argue that this selfish, mean-end justification is wrong, that animals have intrinsic rights and we should respect these rights period, regardless if respecting animal rights helps promote our welfare or not.

One of the main issues we will discuss is whether there is any such thing that is really intrinsically good, or whether everything that we value is instrumentally good, that we value certain things because they are instrumental goods based on tentative acceptance of other values which are in turn based on our current knowledge of the world. Test your own thoughts on this. Is money an intrinsic good or an instrumental good? Is education and intrinsic good or an instrumental good. Love, sex, children, security, exercise, pleasure?

Here are some other terms related to theories of nonmoral value. These are traditional theories of intrinsic good.

hedonism the view that pleasure is the only intrinsic good. This view is often supported by psychological hedonism, a theory of human nature that says that all human beings do in fact by nature seek pleasure. Notice the parallel between these two views and ethical egoism and psychological egoism discussed above.

self-actualization a nonhedonistic theory that argues that pleasure is a byproduct of happiness and happiness is a result of developing potential. Hence, this theory admits that pleasure is a good, but denies that it is the good.

Aristotle's theory a self-actualization theory. According to Aristotle, human beings by nature have a certain potential to develop or "actualize." Since, all life by nature seeks to actualize its potential, the actualization of potential will produce happiness as a byproduct. The ultimate aim, goal, or potential of the human species is to develop our rational, contemplative, and curious nature. Hence, for Aristotle we study the Cosmos not only because it results in practical technologies (an instrumental justification), but mainly because we are "driven" to actualize this potential. Since this striving is natural, acquiring knowledge is a good-in-itself.

Many students conclude that they must be relativists because they do value cultural diversity, and they do believe that we should respect and promote actions that support the development of other cultures. But believing this is to believe that all people should respect the rights of others, and this is a normative position, not a full on meta-ethical relativist position.

Instrumental Naturalism

This view admits that many times we cannot justify in some ultimate logical or scientific sense our most important or fundamental values. However, this view asserts that it does not follow from this that the meta-ethical relativists are right; it does not follow that any value judgment is just as good as any other. According to the instrumental naturalist we can still see that a rational discussion of value disagreements is possible, and that we can even make a case that it is possible to "learn" about values in much the same way that we learn about the physical world. In other words, our values can evolve and progress along with our increased understanding of the world.

The instrumental naturalist interprets values as aims or goals that we decide to have. Once we decide on certain aims or goals, it is an empirical matter whether or not particular actions will promote our goals or not. If you decide to get a good grade in a class, then you know you "ought not" to be going to a party the night before a big test. It is simply an empirical fact that such action is not likely to promote your goal. If we want the human race to survive and prosper, then most biologists would claim it is an empirical fact that polluting the environment and killing many animal species will not promote our goal. Ethical judgment then becomes a relatively simple means-ends affair. If you have a goal X, then it is usually an objective scientific matter as to how to best achieve it.

But what about our ultimate goals? Can disagreements about ultimate goals be part of rational discussion? To some extent yes, says the instrumental naturalist. Although ultimate goals cannot be proved in some conclusive sense, we can still evaluate them based both on the basis of other goals we have and other standards. Also, we can evaluate a goal based on whether or not it is a practical goal to have -- on whether or not the goal, given the facts of life, is an attainable goal. For instance, most scientists and philosophers of science have abandoned the cognitive goal of obtaining rational certainty for scientific claims, because we have learned more about human reasoning limitations in our confrontation with nature. Likewise, most students eventually "learn" that it is not very practical to take 15 credits and also work 40 hours a week. So we can criticize goals based on their consistency and realizability.

In this way, argue the instrumental naturalists, there can be some kind of connection between facts and values, between what we learn about the world and what values we ought to promote. Also, we should no more require certainty in value judgments (in connecting facts with values) than we do in making scientific claims (connecting facts with theories). Our goal should be to separate the reasonable alternatives from the given alternatives, which implies that our judgments are fallible and our values may change with time. So, given any difficult ethical situation where we find people either uncertain or disagreeing, the instrumental naturalist gives us the following advice: Get people to discuss and clarify their ultimate goals first, then analyze the facts -- what is the best way (course of action) based on the way things work for achieving our goals.

CONCLUSION: