REVIEW

Practical syllogisms are arguments for moral value judgements—claims that certain actions (value objects) have a certain moral value (as given in the value term—e.g. unjust)

Practical syllogisms involve three types of premises:

1. **Empirical**: These state the (morally relevant) empirical facts in the case we are considering:

> e.g. Mary (the purchaser for A) accepted a large gift from Mark (the sales rep of product X for B). The gift was intended to get her to purchase X regardless of her duties to A; Mary authorized A's purchase of X largely because of Mark's gift.

2. **Conceptual**: These link the concepts or vocabulary used to describe the empirical facts to concepts used in the value principles.

> e.g. Accepting a large gift from someone so that this gift causes one to act for that person instead of those one has promised to represent is ***accepting a bribe.***

2. **Value principle**: These ascribe a moral value to certain types of actions.

> e.g. Accepting a bribe is morally wrong (breaks one's promises to be a faithful employee, etc.)

The conclusion for the implied practical syllogism?

We want our practical syllogisms to be sound—valid with true premises

Problems can arise if the empirical facts are mistaken (we won't worry about this in this course); or, the conceptual claims are wrong (which may make the facts irrelevant for the value principle)

Problems for soundness can also arise if

(a) more than one value principle applies to the facts, yet these lead to conflicting conclusions (about whether the act is morally right or wrong);

or (b) the value principle is mistaken.

We can check (b) by using principle tests

New Cases Test: This test considers whether the value principle we are applying in a given case is one we can use to judge all *relevantly* similar cases.

We can accept a principle only if we can accept everything it implies.

e.g., Suppose the principle is: "People should *never* steal." Then we should be able to apply it in these new cases to see whether we are willing to apply it consistently.

New case: Chris's baseball glove has been stolen and Chris needs one for the championship match. Chris steals one from a local sporting goods store.

Practical syllogism:

1. Chris's baseball glove has been stolen, Chris needs one for the championship match; Chris steals one from a local sporting goods store. (EP).
2. People should never steal. (Tested VP)
3. Chris shouldn't have stolen the glove. (VJ)

Does the principle work for this case?

New case: A student had been ill but needed to pass an exam in order to graduate. She stole a copy of the exam questions.

This case?

New case: To get the enemy's battle plan, a spy stole the plan.

New case: To get free music, Janet downloaded 500 of her favourite songs through Limewire.

New case: A starving family was able to survive only by stealing food.

If the principle applies in all the cases, then we have a *consistent standard*.

If the principle does not apply to one or more of the above cases, then the principle has to be rejected or modified.

For example, if stealing is justified when one is starving to death and can get food in no other way, then another principle is being used to restrict the scope of the no-stealing principle—to keep living is more important than not stealing

The steps in the New Cases Test:

(a) Identify or formulate the value principle that forms part of the reasons for your value judgement.

(b) Think of some possible action, object, or situation to which this principle would apply. Try to think of things to which the principle applies but that you *may not* want to judge as the principle requires.

(c) Consider whether you would be willing to judge this case in the way the principle requires.

(d) If you can't accept the judgement, you must either change your original judgement or consider if there are any other reasons for it.

(e) If you can accept the judgement in the new case, imagine other new cases until you are reasonably assured you can accept the principle's outcomes in all relevant cases.

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Used for the food-stealing case:

(a) Formulate the value principle: "One should never steal."

(b) A possible case where the principle applies, but we may not want to accept what the principle says: A starving person who can only feed themselves and family by stealing food; this person steals a loaf of bread.

(c) Am I willing to say that this person should not have stolen the bread because stealing is always wrong?

(d) I now decide whether the judgement that the person shouldn't have stolen the bread is wrong altogether.

Perhaps there's another reason why the person shouldn't have stolen the bread?

If not, then the judgement is wrong. If so, perhaps because the person they stole it from had no other food, accept the judgement, but for a different reason

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Subsumption Test: A value principle is acceptable if it follows logically (can be deduced) from another, more basic value principle**,** which is itself acceptable.

If our value principle is ***inconsistent*** with a more fundamental value principle we also believe, then this reveals a problem in our reasoning.

Example: I say that, in business, I accept the principle that one may cheat any customer who isn't "smart enough" to look after their interests. Caveat emptor, I say.

> You point out that I also accept the more basic principle that one should treat others the way one would like to be treated by them, and that I clearly would not like to be cheated by other sneaky people who can fool me.
>
> In effect, you are saying that my business principle is *inconsistent* with my more basic principle of morality, and so that I have a problem in my moral reasoning.

In other words, if one should always treat others the way one would like to be treated by them, and one would not like to be cheated by others, it follows that one may ***NOT*** cheat any customer who isn't "smart enough" to look after their interests.

There are three ways for a value principle to fail the subsumption test:

(a) The more basic principle from which the value principle derives is itself *unacceptable,* in that the person making the value judgement cannot accept this basic principle; or

(b) the judger can give no reasons for holding the value principle, and so has no higher-order principle from which it can be derived.

(c) The more basic principle is *inconsistent* with the proposed value principle, and so the value principle can't be defended by it.

The Velasquez text covers a great variety of fundamental principles such as the principles of utility and of respect for persons.

Most people don't use these higher order principles explicitly. But if someone challenges your value premise, you need to offer a more basic one.

EP: If I kill one villager, I save 19.
EP: If I don't kill one, all 20 will die.
Value conclusion: I should kill one villager.

Add a plausible value principle to make this argument valid?

"One should try to prevent as much loss of life as possible, even if some lives are lost."

We get:

1. If I kill one villager, I save 19.
2. If I don't kill one, all 20 will die.
3. If one can only save many people by killing a few, then one prevents as much loss of life as possible in this way.
4. One should try to prevent as much loss of life as possible, even if some lives are lost (VP)
5. I should kill one villager. (Value conclusion)

If someone challenged the value premise by arguing, e.g., that killing is *always* wrong, then you would need to defend the value premise.

A **more basic principle** that could defend this value premise is the principle of utility: "For all those affected by an action, the action is right if it causes more pleasure than pain, and wrong if it causes more pain than pleasure."

Those who disagree might try to challenge the higher order principle (here, the principle of utility).

Notice that you cannot defend a basic principle by the *subsumption* test, since the principle is basic.

You will often encounter situations where someone challenges your value premises. So, you will need to learn how to appeal to and defend higher order principles.

The steps in the Subsumption Test:

(a) Formulate as clearly as possible your value principle.

(b) Consider carefully your reasons for holding the value principle.

(c) Identify the higher-order value principle which explains why you hold the value principle.

(d) (i) Decide that the higher-order principle is acceptable and accept your original decision.

(ii) Decide that the higher-order principle is not acceptable and:

(iia) Reject it and your original decision, or

(iib) Find new reasons for your decision and test the new value principle to which these reasons commit you.

Casuistry: We use casuistry to decide whether some thing or action is a value object; e.g., whether a thing is stealing, adultery, private property, kindness, bribery, a foetus, a person, etc.

Casuistry is used to solve *relevance problems*: problems about whether a value principle applies in a given case

For example, suppose we accept the value principle that bribery is wrong: We still have the problem of telling whether a given action *truly* is a bribe and when it is enough like a bribe to be immoral?

Casuistry comes from *common law*

In common law, a judge decides a case by comparing it with the way previous judges have decided similar cases in the past

The judge cites relevant ***analogies*** and ***disanalogies*** between past cases and the present one.

If the analogies are more important, the judge decides the case in a way similar to the way the earlier judge decided the case.

If the disanalogies seem to be more important, the judge decides the case differently.

Paradigm (positive/negative) cases: cases where the principle clearly does/doesn't apply

Problematic (test) cases: cases where the application of the principle is not clear

Example. Moral principle: "People should not steal."

Paradigm case of principle:

C-P+: Breaking into a store at night and taking several thousand dollars worth of merchandise clearly violates the rule.

Shoplifting?

Taking a bicycle someone forgot to lock?

Picking up a quarter on the street?

Failing to return a sheet of paper or a paper clip someone gave you?

Problematic cases: Some situations, however, are more problematic.

Recall the case of an engineer who helped to develop a new chemical process at Company A and then moved to Company B, where they used some of the same ideas, but applied them in a very different way to a different process?

The engineer is taking ideas produced at another place, did not completely produce them on their own; so *in this respect*, the action resembles stealing.

However, the engineer did help produce the ideas, and was completely responsible for adapting them to a very different process

So the engineer "made the idea his own."

So not a clear case of stealing—in fact, probably not stealing

Moral rule: “People should not steal (or commit theft).”

Relevance issue: Which actions *truly* involve stealing?

Arrange cases in a series:

C-1: Breaking into a store and taking $10,000 in merchandise (C-P+).
C-2: “Borrowing” a friend’s car and failing to return it.
C-3: Taking a bicycle someone forgot to lock.
C-4: Developing a computer program on company time for your firm, then patenting a considerably improved version of the program under your own name.
C-5: Borrowing a book from a friend, keeping it by mistake for a long time, and then failing to return it.
C-6. Using some ideas you developed at Company A for a very different chemical process at Company B.
C-7. Using some management techniques at Company B that were developed at Company A.
C-8. Picking up a quarter that you saw someone drop on the street.
C-9. Failing to return a sheet of paper (or paper clip) you borrowed
C-10. Picking up a quarter someone (you don’t know who) has dropped on the street (C-P-).

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What makes determining theft so difficult is that there is no single criterion to decide the issue.

Monetary value?

Degree of relationship to owner?

Knowing that it doesn’t belong to you, and not returning it?

Another case: casuistry and “*bribery*”

C-X: Tom is the department manager of a large new chemical process unit to be designed and then constructed

Tom has to form the process unit staff, supervise the designers so that plant is safe, operable and maintainable, and start up the plant after construction

During his previous experience, Tom noted that a new valve was less expensive and often gave a tighter shutoff than the proposed gate valve

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So he persuades the purchaser to buy them

After the purchase, the salesman, Jim, invites Tom on a fishing trip to South America

Tom had not known Jim prior to the purchase and had no direct purchasing responsibilities; he just wanted the valves for increased safety.

This is ***not*** a paradigm case of bribery, since clear cases of bribery entail payment for an act that is inconsistent with the work the bribed person has been hired to do

In fact, Tom acted according to his obligations. Further, the gift, was given after Tom's recommendations and without any prior knowledge.

Should he accept the fishing trip?

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A paradigm case of a bribe (C-1) Tom is in charge of designing a large new chemical process unit that would be safe, operable and maintainable, and as economical as possible, given these considerations.

A salesman approaches Tom and offers him a more costly, less safe valve for some money and other perks, and *so* Tom recommends it. After the valves are purchased, the salesman also invites Tom on a fishing trip to South America.

Though the test case, C-X, is not itself a bribe, it does involve accepting a large gift and so has some similarity with a bribe.

A paradigm case of a non-bribe: C-10. This case is exactly the same as C-X, except that the salesman only gives Tom a $5 plastic pen.

Our problem is to decide whether C-X is closer to C-1 (say, C-2 and so morally wrong) or C-10 (say, C-9, and so morally acceptable)

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Let's consider some of the morally relevant features of C-1 (i.e., C-P+).

1. Tom has direct responsibility for specifying the valves.
2. The salesman made the offer before the valves were specified or purchased.
3. The valves specified were less safe, reliable or more expensive than alternatives.
4. Jim's offer *caused* Tom to buy Jim's valves.
5. The company will probably benefit from good relations with Jim's company. E.g., service will probably be easier to get.
6. Tom rarely accepts gifts from suppliers with whom he does not do business.
7. Knowledge of the gift may influence others to buy from Jim, even if Jim's product is not the best.
8. The gift was for a lot of money.

Even if there had been no corruption, C-X still would *appear* to involve corruption.

> *IBM's test: "If you read about it in your local newspaper, would you wonder whether the gift just might have something to do with a business relationship?"*

C-10 shares only features #5 with C-1, but C-X shares characteristics 5, 7 and 8 with C-1.

Suppose that, in C-X, Tom often accepts gifts from suppliers after a deal, even if the supplier has not won the sale.

> Further, Tom has an *influence* on which valves are chosen. If so, C-X also shares some aspects of characteristic #1 with C-1.

(Additional case, C-2: Here Jim offers the gifts *prior* to the purchase, though Tom (believes) he chose the valves because of their worth.)

> Jim's offer clearly was a bribe, even though Tom did not make his decision because of it; still, he probably should not accept the offer.

Moral rule: "People should not offer or accept bribes."

Relevance issue: Which actions *truly* involve bribing?

C-1: Tom (purchaser) buys shoddy valves from Jim (salesman) because of a large gift.

C-2: Tom (purchaser) buys shoddy valves after being offered a large gift, but ***believes*** he bought the valves on their merit.

C-3: Tom (purchaser) buys better quality & cheaper valves, after being offered a large gift.

C-4: Tom (purchaser) buys better quality & cheaper valves, after being offered a significant, but not expensive, gift.

C-5: Tom (purchaser) buys better quality & cheaper valves, and is later offered a large gift by Jim.

C-6. Tom (manager) persuades purchaser to buy better quality & cheaper valves, and is later offered a large gift by Jim.

C-7. Tom (manager) persuades purchaser to buy better quality & cheaper valves, and is later offered a significant, but not expensive, gift by Jim.

C-8. Tom (manager) persuades purchaser to buy better quality & cheaper valves, and is later offered e.g., a Tojo's restaurant coupon by Jim.

C-9. Tom (manager) persuades purchaser to buy better quality & cheaper valves, and is later offered e.g., a Tim Horton's restaurant coupon by Jim

C-10. Tom (manager) persuades purchaser to buy quality valves and is later given a $5 pen by Jim.

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Anti argument: C-X should be considered morally impermissible.

1. Historically, moral restrictions on bribery have increased; so the restrictions on actions closely related to bribery would also be increased. By most current corporate standards, Tom should not accept.
2. The size of the gift is morally troubling.
3. Knowledge of the gift could work as a kind of prompter-bribe for other people in Tom's plant or in other plants: They might say, "If we buy from Jim, we can expect a nice gift."
4. **Fails Universal Consequences Test:** If all salespeople offered gifts to those who bought or recommended their products, and all purchasers accepted the gifts, bribery would become universal. This might neutralize the effect of bribing, but it would also lead to extortion, and would harm smaller companies without big bribery bucks, which would harm competition.

   Further, the gifts would probably tend to get larger and larger, as each salesman tried to top the other one. Nasty consequences!

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Pro arguments: C-X should be considered morally permissible.

1. Strictly, Tom does not accept a bribe, since the gift was given after the deal and did not influence it.
2. Tom's company may benefit from Tom and Jim's personal relationship: It may make it easier to get replacement parts for the valves and to get other types of service.
3. Business life should have its "perks," since business and professional life involves a lot of hard work.
4. Accepting such gifts is quite common in Tom's industry and adds very little to the cost of the product.
5. **On universalizability:** Even if every salesperson offered trips and every person accepted them, things would equalize, and so no harm would result. There might be a kind of "extortion" here, but that matters only if harm is done.

Replace with file-sharing background material

Conflict and relevance problems again: The Sue Rodriguez case:

Background: Sue Rodriguez developed amyotrophic lateral sclerosis (Lou Gherig's disease)

So she appealed s. 241(b) of the Criminal Code of Canada: "every person who 'aids or abets a person to commit suicide' is guilty of an offence and liable for 14 years imprisonment" (505)

Rodriguez tried to get 241(b) declared invalid because of conflict with the *Canadian Charter of Rights and Freedoms*

Section 7 prescribes the right to life, liberty and the security of the person, which places a limit on the state's powers to interfere in the lives of its citizens

S. 12 concerns the right of Canadians not to be subject to "cruel and unusual treatment"

S. 15 concerns the right to equal protection and benefit of the law, which includes a prohibition against discrimination, of various sorts, including on the basis of disability.

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Speaking for the majority, Judge Sopinka argued that, while s. 7 supported Rodriguez's appeal, this section can be limited by "principles of fundamental justice" (505)

He said that Canadian and British history showed a deep resistance to legitimating deliberate killing of terminally ill people

The principled worry of the Court was that declaring s. 241 invalid would leave the "vulnerable" at risk, and that assisted suicide would undermine the sanctity of life

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Though there would be “suffering caused by a blanket ban on assisted suicide, such a ban appeared to be preferable to a law that may not adequately prevent abuse”

As we shall later see, we have here something like a *rule utilitarian* defence of a ban on assisted suicide

A rule utilitarian argues that we should always chose those rules which have the best overall social consequences

In contrast, Rodriguez’s lawyers appealed to various rights which they believed had been suspended

For Rodriguez (Lamer minority report): Since there is no longer any legal prohibition against people committing suicide, given s. 241, disabled people don’t have the same freedoms over their bodies

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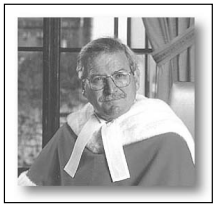
Lamer did not accept Sopinka’s “slippery slope argument,” that there is no way to legally distinguish acceptable and unacceptable assisted suicide



Justice McLachlin thought that the real issue was state interference in what a person does with their body

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Relevance problems:

"discrimination": Was Rodriguez *truly* being unfairly discriminated against?

"cruel and unusual treatment": Was not letting Rodriguez have help in committing suicide *truly* cruel and unusual punishment?

Next Week:
1. Quiz #1: (first 30 minutes of class)

2. The role of principle in ethical decision-making: utility.

- the principle of utility
- act utilitarianism
- rule utilitarianism

Readings
Velasquez, Ch. 2, § 2.1 "Weighing social costs and benefits"

Case: Ford Motor Car & the Pinto (Handouts provided)

Print out and bring work sheet to class