

Weekly Forum Digest for Lectures 9 and 10 (release date of the lectures was April 9th)

Normative vs. Empirical Claims

Be careful to distinguish between:

- 1) empirical arguments about the likely consequences of particular reforms;
and
- 2) normative arguments about whether either (a) the reforms violate certain categorical principles, or (b) the consequences of the reforms are positive or negative.

For example, in the case of the debate about what kind of army we should have we should distinguish between:

- 1) empirical arguments about the likely consequence of (say) conscription;
and
- 2) normative arguments about whether either (a) conscription violates certain categorical principles or natural rights, or (b) the consequences of adopting conscription would be positive or negative.

To make this example even more concrete, we should distinguish between:

- 1) empirical arguments about (say) whether conscription would reduce the ability of governments to start wars;
and
- 2) normative arguments about whether either (a) the government has a right to force people to fight in wars, or (b) whether it would be a good thing if it was more difficult for governments to start wars.

If you don't distinguish these separate lines of thought you can end up arguing past one another.

As a practical matter, is a conscripted army better or worse than an all-volunteer army?

Several students have engaged in a debate over which type of army is better. For example, CheriT argued that our political leaders will make better decisions if all levels of society were represented in the military through conscription. Molletje

brought his military experience to bear to argue that a conscripted army would feel more ownership, and may act more wisely. These are great points and worthy of discussion.

However, be sure to explore whether there are moral problems that are not contingent on one type of army being better or worse. This is where it might be helpful to use a hypothetical – suppose that loads of data show that the type of army you favor would actually be worse. Do you have any remaining moral concerns? The following questions might not be contingent on whether one type of army is practically better than another. Is there something about citizenship that demands one arrangement or another? Is anyone being coerced in either type of arrangement, either by the government or the conditions of her life? What type of coercion, if any, is acceptable? Is it fair for one segment of society to bear the risks of war? Which arrangement is likely to maximize utility?

What is the relation between a refusal to enforce a contract regarding x (e.g. surrogacy) and criminalizing x (e.g. surrogacy)?

Some students embraced the position that when two people commit to something by means of a contract, it should always be enforced, no matter what.

Several observations regarding this position:

First, strictly speaking, this would imply that we should enforce a contract even if the agreement is about something that is illegal (e.g. murder). This would create a tension that would have to be resolved either by changing the law (e.g. making murder legal) or by prosecuting the parties to the contract as being involved in an illegal activity. So, we need to modify the position to something like the following: When two people commit to something by means of a contract, it should always be enforced, provided that the object of the contract is not illegal.

Second, even the amended view implies that there are no cases of which one could say that it would be unreasonable for anyone to agree to the terms of the contract, which is just another way of saying that there are no cases of which one could say that even though someone did agree to the terms of a contract they should not have done so or would not have done so had they had another, more reasonable, option. This is tantamount to denying the idea of flawed or tainted consent. The challenge for a defender of the view is to show that lack of relevant knowledge (e.g. market price for a service: for instance, a few years back there was a story in the papers about an elderly woman who agreed to pay a plumber several tens of thousands of dollars to fix her leaky toilet; she consented to pay the amount but she also clearly lacked knowledge of the market price for repairing a leaky toilet) or lack of reasonable options (e.g. ways to earn a decent living in the case of poor women who enter into surrogacy arrangements or a person dying of thirst in the desert agreeing to give over all of his possessions for a bottle of water) or lack of imagination (e.g. how

certain types of losses impacts one's life) do not call into question the moral relevance of an act of actual consent.

Third, the amended view also implies the following: If we do not criminalize x (e.g. surrogacy), then it cannot per se be unreasonable to enter into a contract that has x (e.g. surrogacy) as its object. So, either we make x (e.g. surrogacy) illegal or we are obligating ourselves to enforce contracts regarding x (e.g. surrogacy). Notice though how this position which, at first glance, seems to champion freedom and flexibility, may, in fact, lead to less freedom and flexibility. Take surrogacy, for instance. By allowing people to enter into surrogacy contracts but refusing to enforce the contract if the surrogate changes her mind, we enable some people to enter into surrogacy agreements rather than preventing everyone from so doing (which would be the result of making surrogacy illegal).

Is commercial surrogacy tantamount to baby-selling?

Some students rejected the moral equivalence of surrogacy and baby-selling on the ground that surrogacy is the service of renting out one's womb. The challenge for such a view is the fact that the surrogate is growing/producing the thing that gets handed over at the end, she is not merely tending to something that is already produced/complete. Compare this case with the following: What does one buy from a carpenter who rents her skills and time to someone in order to produce a table?

Other students rejected the moral equivalence of surrogacy and baby-selling on the ground that one cannot buy what one already owns. The challenge for such a view is a) to explain in what sense, if any, parents own their children or b) to explain why the fact that I own my eggs or my sperm (insofar as they are a part of me) implies that I also own (completely) something that partly results from the thing that I own. Compare this case with the case of a carpenter who builds a table out of wood that you own.

Surrogacy and Parenthood

The discussion of the "Baby M" case shows that the possibility of surrogacy raises important and interesting questions about how best to understand the relation between parenting, gestating, and being genetically related. Some students asserted that the genetic relation between the surrogate mother and the baby entitles her to raise the baby, making the surrogacy contract void. Such a view faces the challenge of having to explain why the genetic relation of the mother to the baby trumps the genetic relation of the father to the baby. Perhaps in response to this challenge, others asserted that the genetic relation between the surrogate mother and the fact that she gestated the child entitled her to raise the baby, making the surrogacy contract void. The challenge for such a view is to explain what happens in cases where the surrogate is not the genetic mother of the baby. Yet others, asserted that

the fact that the Sterns psychologically and emotionally prepared to be parents was morally more important than both the genetic tie between the surrogate and the baby and the fact that she gestated the baby. The challenge for such a view is to explain why the fact that the surrogate mother seemed to have formed similar psychological and emotional ties is outweighed in this case.

Coerced, Exploited, and Alienated Labor

Coercion

In the case of coercion, we can distinguish between coercion by people and coercion by circumstances.

Roughly put, a person (X) is coerced to perform an action (φ) by another person (Y) if, and only if, Y makes a threat such that, if X does not φ , Y will perform an action that will itself generate a cost to X that is sufficiently harmful that X could not reasonably be expected to endure it. For example, a traveler can be said to be coerced into handing over his money to a highwayman if the highwayman threatens to shoot him but not if the highwayman threatens to make a funny face at him.

In contrast, we might speak of X's circumstances coercing her to perform φ when it's the case that (a) those circumstances mean that if she does not φ she will suffer a harm that she could not reasonably be expected to endure, and (b) the responsibility for X being in those circumstances can't be assigned to any agent. For example, if we think that the responsibility for the fact that X is in poverty cannot be assigned to any particular agent, and that poverty means that X will starve if she does not become a surrogate mother or join a professional army, we might say that she is coerced by her circumstances into becoming a surrogate mother or joining a professional army.

Note that some deny the category of coercion by circumstances, claiming that X's choice is free so long as no other person Y is coercing X to do it. The challenge for such a view is to show why only a person but not circumstances can be said to deprive a person of her freedom.

Perhaps partly to avoid this challenge, there are those who claim that what appear to be cases of coercion by circumstances are actually cases of coercion by people. This is because they treat certain contingent economic circumstances in which people find themselves in desperation back to the agency of the people who create those circumstances through economic and political policy. For instance, if the government implements policies which deny peasants access to land for farming, leaving them with no choice but to go and work in factories in the city, some say that the government is forcing the peasants to work in the factories.

Exploitation

Roughly put, X exploits Y when X takes advantage of the fact that Y is coerced, whether by circumstances or some person, to extract benefits from Y that Y would not accede to in the absence of the coercion. For example, imagine the following scenario. X is being chased by an axe murderer and knocks on Y's door begging to be allowed inside. Sensing a business opportunity, Y agrees to let X inside on the condition that she becomes his indentured servant for one year, and X agrees because of her fear of being killed by the axe murderer. Many would then say that X is exploiting Y because Y would never have accepted those terms were it not for her coercive situation. Alternatively, think back to the example above where the government denies peasants access to the land forcing them to work in the factories. If the factory owners use the desperation of the peasants to extract harsh terms that the peasants would not have accepted if they still had access to their farmland, many would say that this is exploitative.

Alienated Labor

We can distinguish between labor which is alienated because:

- 1) The labor makes the laborer alienated from the product (e.g. the surrogate who does not identify with the baby, or the mercenary who doesn't actually care about defending the country that has hired him);
- 2) The labor makes the laborer alienated from other people (e.g. the surrogate who is alienated from the 'parents' or from the child itself, or the mercenary who kills people simply because it pays to do so);
- 3) The labor is not valuable in itself but is viewed as a mere means to pay (e.g. surrogate/mercenary labor which is actually harmful to the laborer, or factory labor in which the worker feels like a cog in a machine rather than a human being);

The labor is actually incompatible with human dignity and/or self-actualization (e.g. labor which is coercive/exploitative, labor in which the laborer is treated as a mere means, or labor in which the laborer is transformed in such a way that they become something less than fully human).

Why shouldn't money be able to buy certain things?

In response to the Lecture 10 discussion prompt, many students made lists of things that money shouldn't be able to buy. We do have a gut feeling that some things shouldn't be bought and sold (e.g. life, rights, votes). However, challenge yourself to explain why you've chosen each thing on the list.

For example, some have argued that no person would voluntarily choose to become an indentured servant, and therefore, people ought not be able to sell themselves into indentured servitude. Expositors of this argument seem to be concerned about a lack of free consent – i.e. this person might be forced to sell himself because he is extremely poor. Others have argued that vote-selling corrupts the democratic values of our society, and therefore, people ought not be able to sell their votes. The concern seems to be about commodification – i.e. the vote-seller fails to value the vote in the proper way.

Perhaps the most important project of this course is to reflect on why you think the things you do. So, be sure to explain why you've chosen each thing for your list.