

Consent/Realism

2.3-2.5

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John Locke - Tacit Consent

Every person, in agreeing to be part of a society, creates mutual obligations, such as to “submit to the determination of the *majority*”

But we don’t *explicitly* agree (“express consent”), so from what agreement do these obligations come from?

“Tacit Consent” - simply participating in society is an *implicit agreement* to the obligations

Those who benefit from moral rules can be taken to agree to those rules.

Even just passing through a country is “participating”, according to Locke.

John Locke - Tacit Consent?

Someone can only agree if they have the opportunity to disagree , at least to form a moral obligation

Is there any practical way to *disagree* while avoiding any and all participation?

If you're born in a country, did you have any choice to disagree?

The act of disagreeing requires participation

Hume -implied consent cannot be realistically applied to a peasant under a prince, who has no practical means of leaving the country.

Graham -agrees with Locke that tacit consent differs from express consent

but disagrees in that participation by itself is equivalent to tacit consent.

John Rawls' book *A Theory of Justice* introduces the "Original Position," a hypothetical scenario where individuals decide on societal rules behind a "veil of ignorance" - ignoring their own social status, talents, or wealth.

If a person doesn't know whether they will be poor or rich, they would more likely to support fair wealth, the Difference Principle, to avoid possible disadvantages.

This would create fair and just society without biases and self-interest on rules agreed upon.

"If the rules of social engagement are to be fair, they cannot be slanted in favor of one section of society or one type of person." (Gordon Graham, *Theories of Ethics* pg. 18)

John Rawls and "Hypothetical" Consent



Limits of “Hypothetical” Consent

Rawls states that rational individuals would agree to his two principles of justice, freedom and the difference principle in the Original Position, however, people pointed out some flaws in his reasoning.

For example:

- Some people are risk-takers and might reject Rawls' conservative principles, preferring a society with higher inequality for a chance at greater wealth.
- Non-fully rational individuals (those unable to follow complex reasoning) may not be bound by hypothetical consent, undermining Rawls' universal moral framework.

This means that hypothetical consent cannot replace actual consent, raising questions about its legitimacy in enforcing social rules.

Scanlon's Unreasonable Rejection

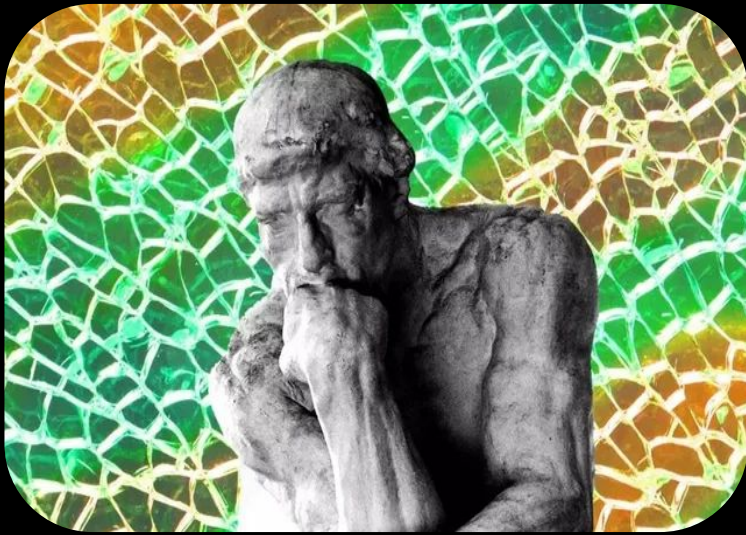
“Our thinking about right and wrong is structured by the aim of finding principles that others, insofar as they too have this aim, could not reasonably reject.”

A principle is considered right if no one would reasonably reject it regardless of their standpoint.

If everyone seeking moral principles agree on a principle, then that principle should be required by all members of society to follow.

Issues with Scanlon's Moral Theory

- “Reasonably” is vague
 - A rejection is reasonable if people believe it is reasonable?
- Scanlon's Theory only ensures that principles are “reasonable”.
 - Is “reasonable” a reason to follow a principle?
 - Example: Everyone in a competition is in agreement that the rules of the competition are reasonable. Individually, they have no incentive to follow the rules.



Realism Vs Rationalism

Realism

The moral truths exist independently of human beliefs and perceptions

*Focus: What is objectively true?
(sensory experience)*

TLDR: "It is what it is"

[Textbook]

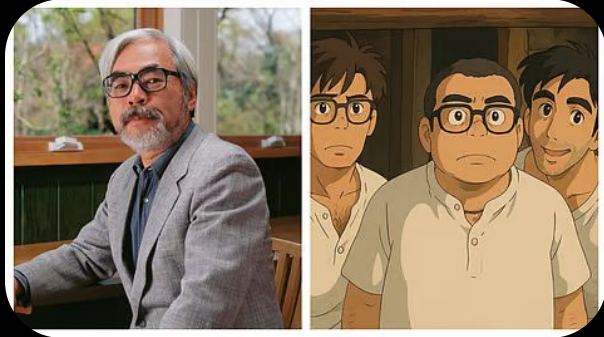
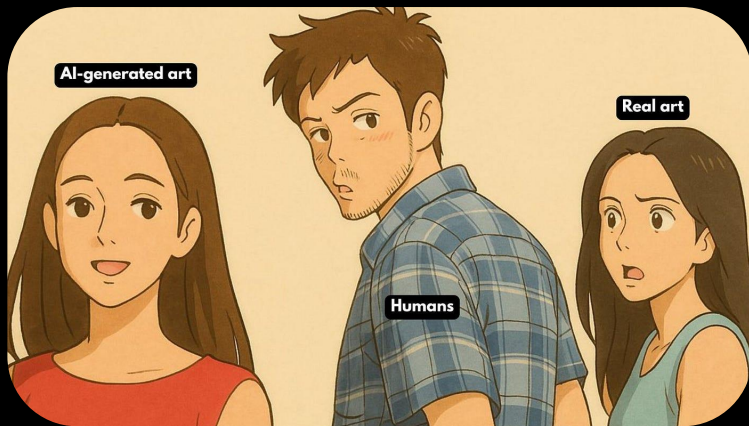
To understand both Hume's and Reid's approach we need to first know that morality is not about emotional feeling, but about practical judgement

Rationalism

Moral principles derive from logical reasoning rather than empirical observation

*Focus: What should be done logically?
(reason as primary source)*

TLDR: "Actions should be based upon reason"



Realism Vs Rationalism

The Ghibli AI *Trend or Controversy?*

ChatGPT's image generator allowed users to mimic Studio Ghibli's style, sparking debates about copyright and artistic integrity

Being a Realist would imagine consequences such as artists losing their jobs and not getting acknowledged, technical challenges such as overuse of GPUs for image generation

Being a Rationalist If universalized, this practice would erase incentives for original art which is a logical contradiction

POV: Would Gen AI replication of art styles create sustainable ecosystem?

Broader Ethics- BioEthics

Locke's Tacit ~

- Implied consent by using these facilities which is present in the healthcare system
- **Ex: Genetic Data Usage**
- Submitted your DNA to a genealogy company such as 23andMe, but now it is used for research purposes
- Didn't know that DNA was used for this purpose, but you didn't say no
- If there's no informed consent, did you really agree? What would Locke's Tacit Take be on the situation?

Rawls's Hypothetical Consent ~

- Rawle says consent is hypothetical and we agree to it if it is fair and impartial
- **Ex: Vaccine Distribution**
- In a society where you do not what conditions you are living in, would you, a rational individual, agree to an unequal vaccine distribution based on wealth if you didn't know you were poor or wealthy
- What would be a Rawlsian take on this problem?

Broader Ethics- BioEthics

Scanlon's Unreasonable Rejection~

- If an action is wrong based on principles, we can reasonable reject. Must be justifiable to others in society
- **Ex: Equitability in Healthcare**
- Is someone justified in denying using healthcare AI systems that could encode bias or mistreatment in their algorithms?
- What is a Scanlon take on this dilemma? Would you be justified in denying treatment based on the concern for justice and equitability in healthcare?

Broader Ethics- Business Ethics

Locke's Tacit ~

Ethical Topics: User Agreements, Fine Print, and Opt-Out Models

Scenario: A user signs up for a service or makes a purchase on a website. However, the company uses and sells their interactions/data to third parties.

Question: If someone uses the service, but never explicitly consents to everything in the fine print, can we say it was ethical they agreed?

Ethical Issue: Is passive participation enough to imply moral or legal obligation?

Rawls's Hypothetical Consent ~

Ethical Topics: Executive Pay Inequality

Scenario: The average worker earns 1% of the CEO's earnings

Question: Would a rational person agree to this distribution granted that they don't know if they are a CEO or average worker (cleaning crew etc.)

Ethical Issue: How can we justify unequal treatment or distribution of resources in a way that would be fair to everyone regardless of class/position?

Broader Ethics- Business Ethics

Scanlon's Unreasonable Rejection~

- Business Ethics Topic: AI-based Hiring Tools and Discrimination
- **Scenario:** An algorithm excludes qualified applicants based on gendered or racialized data patterns
- **Question:** Can a hiring process be justified if it systematically excludes people from reasonable standpoints?

Thanks!