**Intermediate Moral Concepts**

| **Concept and Definition** | **Arguments** | **Kinds/Limits** | **Legal and Moral Frameworks** | **Cases Employing Concept** |
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| **Privacy:**  Most generally, privacy is the “right” to be left alone. Those who must respect this right include government, business, our neighbors, and our employers.  **Relational Model**:  X has control over whether Y can access information about X. The nature of the relationship between X and Y will determine what information they must share to establish or maintain that relationship. | **Respect Based.** Privacy is essential to the autonomy of the individual. This is like the role reversal test (a’la Kant).  **Property Model**: Privacy concerns the right to control information about your person, Personal Identifying Information or PII. You own this information since you own your person. You have a right to profit from the uses to which others put this information.  **Public Good**: Privacy is not a right but a public good. Society as a whole benefits if its members are allowed certain zones of privacy and intimacy. | **Accessibility privacy** is about access to your person. Earliest references to privacy in constitutional law come from an earlier technology: the camera.    **Decision privacy** is famously involved in the Roe vs Wade case of the right to privacy in making the decision to have an abortion. The idea is that there are some decisions (certainly not all) that are private.  **Informational privacy** is about who has control over information that is about you. | **“The Fair Information Practices**   * **Notice**. Web sites should provide full disclosure of what personal information is collected and how it is used. * **Choice**. Consumers at a Web site should be given choice about how their personal information is used. * **Access**. Once consumers have disclosed personal information, they should have access to it. * **Security**. Personal information disclosed to Web sites should be secured to ensure the information stays private. * **Redress**. Consumers should have a way to resolve problems that may arise regarding sites’ use and disclosure of their personal information.”   Quoted from “Your Online Privacy Policy: An informational paper about drafting your first privacy statement or improving your existing one” TRUSTe White Paper on Privacy:  http://www.truste.org/pdf/WriteAGreatPrivacyPolicy.pdf  (Accessed December 13, 2007) | **Toysmart**:   * Toysmart creditors wish to sell customer data base—does this violate their privacy? * Toysmart customers shared PII only under strict privacy promises. Do Toysmart promises pass over to their creditors after bankruptcy? * Is privacy property? * If privacy is property who own PII? The individual who generates it or those who would add value to it? |
| **Free Speech**   * The right to express one’s thoughts without governmental reprisals. * FS is a conditional right that can be trumped by other rights such as privacy. * FS does not protect one from social reprisals nor does it impose on others the duty to listen. | **Essential to Autonomy:** The autonomous individual requires free speech to develop and share thoughts.  **Public Good**: Free speech is necessary to acquire new and true ideas.   * *If true*. To suppress it would deprive society of truth. * *If partially true*. To suppress it would deprive society of the part that is true. * *If completely false*. To suppress it would deprive the truth of the vitality purchased by defending itself against the false. | **Defamation** is, essentially, harm done to another (usually reputation, honor, etc.) by speech:   * *Libel* = printed defamation * *Slander =* spoken defamation.   *inflammatory* speech is different from *libelous* speech (requires falsity) | OSP and ISP legal responsibility for defamatory content: three analogies   * **Publisher**—If OSP acts as publisher and exercises editorial content, then OSP is responsible for the content of the speech * **Distributer**—If OSP acts as a distributor, then it is not responsible for the content of what it distributes. It is only responsible for timely removal of objectionable content upon notification * **Common Carrier**—The common carrier is responsible neither for the content nor its timely removal. It is only responsible for installing filters that prevent the entry of objectionable content. | **Biomatrix**:   * Is the truth of speech irrelevant in cyberspace? * In what sense, if any, is an OSP like Yahoo responsible for the defamatory speech displayed within its portals? * Concern of Amicus Curiae: John Doe lawsuits (designed to force OSPs to give out identities of users) could be used to identify and retaliate against legitimate whistle blowers |
| **Property**  Attributes of Intellectual Property:   * Non-rivalrous: my having an idea does not prevent you from having the same idea (Lighting candles from the same match.) * Non-excludable: like the air, it is difficult to contain the spread of ideas. Ideas by their very nature disseminate themselves. | *Labor theory of property.* Originated with Locke. An argument for property as a natural right. We mix our labor with something and it becomes ours. Problematic in many ways. If we assume property it helps understand our intuition about it. But it fails to establish a natural right as necessary. | *Consequentialist theory of property.* Enshrined in US constitution. Two pronged argument (negative) that not protecting property results in undesirable consequences and (positive) that protecting it results in desirable consequences.  *Social Role theory of (intellectual) property.* Information wants to be shared. It is in the nature of information that it is shared. Control over sharing is essential as is provision for sharing. | **copyright**   * legal right (usually of the author or composer or publisher of a work) to exclusive publication production, sale, or distribution of some work for a specified period. What is protected by the copyright is the "expression," not the idea. Notice that taking another?s idea without attribution may be plagiarism, so copyrights are not the equivalent of legal prohibition of plagiarism.   **patent**   * (special, alienable, prima facie) legal right granted by the government to use, or at least (in cases where other patents that such use would infringe) to bar others from using a device, design, or type of plant that one has created. In the United States restrictions last for 17 years for useful devices, and 14 years for designs. Specific provisions of U.S. patent law may soon change to bring it into conformity with the provisions of other technologically developed countries. To patent a device one must prove that it is useful, original, and not obvious. Patents are subject to challenge in court and may be upheld or overturned.   **trade secret**   * device, method, or formula that gives one an advantage over the competition, and which must therefore be kept secret if it is to be of special value. It is legal to use reverse engineering to learn a competitor’s trade secret. "Know how" concerning research procedures may function as something like a trade secret.   **"Glossary" Online Ethics Center for Engineering 1/31/2006 6:57:46 PM National Academy of Engineering Accessed: Thursday, December 13, 2007 <www.onlineethics.org/CMS/glossary.aspx>** | **The shrinking intellectual commons.** There is social value in having a common “space” where information is shared (see arguments for intellectual property). Unrestricted exercise of property rights caused damage to the environment. Unrestricted exercise of intellectual property rights may cause damage to the intellectual commons.  **Educational Laptop Case**: Does digitalizing print textbooks violate laws in intellectual property?  **Toysmart**:  Who owns the PII and TGI that I generate? |
| **Justice (Including Equity and Access)**  Justice is giving each his or her due | **Essential to autonomy**—the individual cannot be fully autonomous without receiving a just distribution of political and economic goods  **Spheres of Justice Approach**: Walzer argues that there are several distinct spheres of practical activity each with its own principle of distributive justice (Educational, Political, Economic)  **Justice as a Virtue**: For Plato, justice is the highest of the four cardinal virtues (others being temperance, courage, and wisdom) consisting of the integration and right ordering of the other virtues (which are excellences of the parts of the soul) | * **Distributive:** dividing benefits and burdens fairly * **Retributive:** fair and impartial administration of punishments * **Administrative:** fair and impartial administration of rules * **Compensatory:** how to fairly recompense those who have been wrongfully harmed by others | **Rawls—Two Principles of Justice**   * *Equal Liberties:*“each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others” (=freedom of speech and assembly, liberty of conscience, freedom of thought, freedom of the person, etc) * *Difference Principle:*“social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage and (b) attached to positions and offices open to all….” | **Hughes Case:**  Does the court system provide victims of wrongful dismissal with adequate means of redress?  **Incident at Morales:**  Is international, social justice served by operating under less stringent environmental regulations in other countries? |
| **Patterns**   * *Equality*: equal shares to all * *Merit*: greatest shares to those who deserve it * *Need*: greatest shares to those who need it |
| **Nozick:**  Justice as Entitlement =  Justice in acquisition + Justice in transfer |
| **Safety** | “A thing is safe is, were its risks fully known, those risks would be judged acceptable in light of settled value principles.” MS 108  “A risk is the potential that something unwanted and harmful may occur.” MS 108 | **Risk Assessment**: The scientific and exact process of determining the degree of risk.  **Risk Management**: The political process of determining if a certain degree of risk is socially acceptable. Requires the consent of the risk taker  **Risk Perception**: How people perceive risk diverges from how risk is assessed. Dread and unknown factors increase perceived risk without increasing degree of risk  **Risk Communication**: How to communicate risk to risk takers as a part of the consent process. (Concrete language and careful analogies.) | **Advice from Leveson on System Safet**y (Selections taken and quoted from *Safeware: System Safety and Computers*, pp. 510-511)   * Our most effective tool in making things safe is simplicity and building systems that are intellectually manageable * Safety and reliability are different and must not be confused * Placing too much reliance on probabilistic risk assessment is unwise * Building safety into a system will be much more effective than adding protection devices onto a completed design; The earlier safety is considered in the development process, the better will be the results * To make progress, we must stop oversimplifying accidents and recognize their complex, multifactorial nature. Fixing only symptoms while leaving root (level three) causes intact will not prevent the repetition of most accidents. * Human “error” is integrally related to human flexibility and creativity. * Safety is a system problem and can only be solved by experts in different disciplines working together. * Just because the events leading to an accident are not foreseen does not mean the accident is not preventable. The hazard is usually known and often can be eliminated or reduced significantly. * Complacency is perhaps the most important risk factor in a system, and a safety culture must be established that minimizes it * We must learn from the past so that we do not repeat the same mistakes | **Hughes**   * Harmful impacts if computer chips fail under stressful environmental conditions   **Therac-25**   * Leveson’s comments are relevant here * How does one go about designing a system like the Therac-25 to ensure, not only its reliability, but its safety? * How does one identify and trace the cause(s) of system malfunctions? * Can one prevent normal accidents given that their causes are often related to human flexibility and creativity? |
| **Public** | “those persons whose lack of information, technical knowledge, or time for deliberation renders them more or less vulnerable to the powers an engineer wields on behalf of his client or employer” Davis |  |  |  |
| **Whistle-blowing** | The duty the engineer has to make risk information generally available to the public  (This duty entitles engineers the right to the means necessary to carry it out) |  | Morally Permissible: serious and considerable harm, made known to supervisor, exhausted internal channels  Morally Obligatory: above conditions plus documented evidence and reasonable chance of avoidance of harm by publicity | There are different ways of blowing the whistle  1) Inside vs. Outside  2) Anonymously vs. Not anonymously  3) With documented evidence vs. without  4) As a first resort vs. as a last resort  5) To protect public health vs. to promote selfish interests  6) With protection vs. Without Protection |
| **Conflict of Interest**  A person has a conflict of interest if… | (a) he is in a relationship with another requiring him to exercise judgment in that other’s service and… | (b) he has an interest tending to interfere with the proper exercise of judgment in that relationship | **Actual**: the outside interest is actually and currently adversely affecting professional judgment.  **Latent**: all that is required for the outside interest to actually and currently adversely affect professional judgment is a change in circumstances.  **Potential**: all that is required for the outside interest to become a latent conflict of interest is a change of circumstances. | **Hydrolevel Case** |
| **Informed Consent**   * Consent of risk taker to understand the nature and breadth of the risk he or she is being asked to take.   Belmont Report:   * “subjects, to the degree that they are capable, be given the opportunity to choose what shall or shall not happen to them. This opportunity is provided when adequate standards for informed consent are satisfied.” | Free and informed consent is *essential* to autonomy  The *standard threat* occurs when crucial risk information is not uncovered in risk assessment or is covered up by those who stand to lose due to its publication  Informed Consent does suffer limits in terms of its *feasibility*. Do private indivuals have the right to veto large scale government projects? (This is not just a utilitarian vs. deontological issue: it could also be framed as a conflict within deontology between different, conflicting rights and duties) | **Belmont Report**:  Conditions for Informed Consent  **Information:** research procedure, their purposes, risks and anticipated benefits, alternative procedures (where therapy is involved), and a statement offering the subject the opportunity to ask questions and to withdraw at any time from the research. **Comprehension:** manner and context in which information is conveyed is as important as the information itself.  **Voluntariness:** an agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion and undue influence. | Institutional Research Boards IRBs) now require documentation of informed consent on research projects carried out under that university’s auspices. This is in response to requirements by federal granting agencies such as the NIH and the NSF.  [**http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.htm**](http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.htm) **(Accessed December 13, 2007)**  **Consenting to the transfer of PII (personal identifying information) online**  ***Opt-in:*** information transferred only with express consent. Default is not transferring information  ***Opt-out:*** information transfer is halted when person to whom PII refers does something positive. Default is on transferring information  **Liability Rules and Property Rules:**  Sagoff makes this distinction with reference to activities that have an impact on the environment. An injunction referring to liability rules stops the activity to protect the individual who proves impact. Property rules require only that the producer of the environmental impact compensate the one who suffers the impact. | **Therac-25 Case**   * Patients receiving radiation therapy should be made aware of the risks of this treatment including the possible malfunction of the machine or its software |