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Deontological Ethics

Introduction

The moral theories I have discussed in the previous chapters, utilitarianism and ethical egoism, are sometimes called ‘consequentialist’, since they claim that the value of the consequences of our actions (for everyone affected or for ourselves) is decisive for their moral status (as right or wrong). Consequentialism is often contrasted with ‘deontological’ ethics, as if these two kinds of moral theories divided the entire field between them. This is certainly not correct. There exist other possibilities as well (as we will see in chapters to come). But deontological ethics and consequentialist ethics do differ in a very radical manner: according to deontological ethics it is the nature of the act as such that is decisive to its moral status. If consequentialism invites us to consider the consequences of the act, deontological ethics invites us to consider the act, without pondering its consequences.

The roots of the word ‘deontology’ can be found in the Greek words *deon*, duty, and *logos*, science. The best-known representative of deontological ethics is the German philosopher Immanuel Kant. We also meet with deontology in what has been called a ‘Thomistic’ version (after Thomas Aquinas), often called, in its modern application to problems of life and death, the sanctity of life doctrine. I will here discuss deontology in both its Kantian and its Thomistic versions (the sanctity of life doctrine). According to deontological ethics, all instances of certain types of actions are prohibited, or obligatory, irrespective of the consequences of performing them. I will start with a very rough representation of the moral philosophy of Immanuel Kant and then introduce the sanctity of life doctrine. The main objective in the chapter is to find out whether there are any plausible examples of strict deontological prohibitions or obligations.

Kantianism

Kantianism is sometimes identified with an idea put forward by Kant to the effect that the only thing that is good in all circumstances is a good will. This is how he puts the point in his enormously influential book, *Groundwork* (1785):

It is impossible to think of anything at all in the world, or indeed even beyond it that could be considered good without limitation except a good will. (*Groundwork*, p. 7)

Note, however, that this idea is not ‘deontological’, in the sense described here. It does not focus our attention on the act itself. It does not define a class of right actions, or wrong actions, or obligatory actions at all. As a matter of fact, it represents a line of thought that will be discussed more thoroughly in Chapter 6, which concerns virtue ethics. The truth about Kant is that he holds an ethical theory with two very different tenets. The first is the one expressed in the quotation above. The other is his deontology, his idea that some actions are right or obligatory irrespective of their consequences, while other actions are wrong, irrespective of their consequences.

How these two tenets of his moral thinking fit together is problematic. From Kant’s point of view, it is fine if an obligatory action is performed for the right motive (a good will), of course, but what can he say of obligatory actions performed for the wrong motive, or wrong actions performed for the right motive? The moral status of such actions seems to be a bit vague in Kant’s moral philosophy, but I will not discuss this problem any further in the present context (I will return to a similar problem when discussing virtue ethics, however). Here the focus will be exclusively on the deontological aspect of Kant’s moral philosophy. The focus will be on actions proclaimed by Kant to be absolutely wrong and, in particular, on one such type of action: the deliberate and active killing of innocent human beings. If anything is absolutely wrong, it would appear that this is it.

Kant thought that there exists one very general duty, which is absolute, and such that reason alone dictates it to any rational human being. He speaks of this duty as the categorical imperative. He states it as follows:

There is, therefore, only a single categorical imperative and it is this: *act only in accordance with that maxim through which you can at the*

same time will that it become a universal law. (*Groundwork*, p. 31, emphasis in the original)

Kant formulates his categorical imperative in various different ways, however. Here is another formulation of it:

So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means. (*Groundwork*, p. 38, emphasis in the original)

Kant seems to have thought that these and other formulations are equivalent. But it is hard to follow him on this point.

The original formulation of the imperative is well in line with a standard line of moral argument: what would happen if everyone did that? If what would happen would be bad or unthinkable, then, it is assumed, this is a reason to abstain from the action in question.

Note that this line of argument is similar to what we have in a previous chapter called ‘rule’ utilitarianism. However, there are both similarities and differences between Kant’s categorical imperative and rule utilitarianism. A difference is the following. According to rule utilitarianism, bad consequences of general conformance with, or acceptance of, a rule means bad consequences from the point of view of *welfare*. Kant will have none of this. When he speaks of a maxim such that we cannot will that it becomes a universal law, the paradigmatic example is something like the following. Suppose I ponder whether I should tell a lie. I then ask myself: can I will that telling lies becomes a universal law? I realise that I cannot will this. Why? Because if everyone were to tell lies all the time communication would break down. It would be impossible not only to tell lies, but to tell the truth as well. So I have an absolute duty never to tell a lie.

A similarity between Kant’s categorical imperative in its first formulation and rule utilitarianism is an ambiguity built into both. They can of course be seen as moral principles in their own right, in competition with other theories discussed in this book, but they can also be seen rather as a kind of heuristic device, intended to help us to find the correct moral principles. If we want a moral principle to explain the rightness and wrongness of actions, the latter understanding of them is the most plausible one, I submit. It makes good sense to say of a particular action that it is wrong because it is an act of murder. It sounds a bit strained, however, to say that it is wrong because we cannot will

that everyone performs this kind of action, or because the general acceptance of, or conformance to, a rule allowing it, would be bad. Or so I think, at any rate. And I will here anyway focus exclusively on strict prohibitions and obligations such as, do not kill, or do always see to it that a murderer be executed. I will also focus on Kant's second formulation of the categorical imperative, which sounds more like a normative principle in its own right, the idea that one should never treat oneself or anyone else merely as a means (not even to a noble end).

These prohibitions and obligations are indeed strict, or *perfect* (in Kant's words). They allow of no exceptions. But it would also be possible to think that under extreme circumstances, it would be permitted for us to violate them. We are not allowed to kill one in order to save five, but we are allowed to kill one in order to save the human race, one could think. I am not sure whether the introduction of exceptions such as these would render deontology more or less plausible, however. And it is certainly not the view Kant himself defended.

Besides the perfect duties, Kant also countenances *imperfect* duties; in particular he believes that we have an imperfect duty to make other people happy. We are never allowed to violate a perfect duty in order to fulfil an imperfect one, however. It is also left a bit vague how stringent our imperfect duties are. In the sequel I will set them to one side and focus on the perfect ones. And the most obvious one, if there are such obligations, must be an obligation not to kill. This is also a concern in the sanctity of life doctrine.

The principle of double effect

No moral philosopher has prohibited all kinds of killing. Kant defended, as we will see in the chapter on environment ethics, the killing of animals. And he defended capital punishment. So, according to Kant, it is only the killing of innocent rational beings that is absolutely forbidden. But even that may seem too strict. Here *the sanctity of life doctrine*, with its roots in Thomas Aquinas' philosophy, helps the deontologist to a more liberal stance. The sanctity of life doctrine comes with a permission to kill, in some circumstances, provided the killing is not intentional. But what does it mean to kill without intending it? This can be clarified with reference to *the principle of double effect*. To kill

intentionally is wrong, but if the death of the person you kill is merely a foreseen, but not intended side effect, of a morally permissible kind of action, and if there is a reasonable proportion between the (badness of the) death you foresee, and the good you intend, and provided you do not use the death you foresee as a means to the good thing you intend, then the merely foreseen killing may be all right. It should also be added that, if there had been a way of securing the intended effect, without killing, this way should have been chosen.

The principle gives room for medical doctors sometimes to administer lethal doses of painkillers, provided there is no other way for them to kill the pain. When the patient is dying in agony, the requirement of proportionality is trivially satisfied. The principle does also give room for a just warrior to kill his enemy, even if this means that some civilians are also killed, provided he did what he could to avoid civilian casualties, and provided there is a reasonable proportion between the good the warrior intends (the defeat of an aggressor, say) and the bad he foresees (the civilian losses). Here the requirement of proportionality plays a crucial role. It is not trivially satisfied. It is not sufficient that the proportion is there in the mind of the agent. It must obtain in real life. The adherents of the principle of double effect have always left the requirement of proportionality a bit vague, however.

The value of a human life

One reason often put forward why we should not kill innocent human beings refers to the inherent value in a human life. Such a reference is given by both Kant and the adherents of the sanctity of life doctrine. This reference to value may sound reminiscent of discussions about utilitarianism and egoism. According to utilitarianism and egoism there is something that we should maximise in our actions. It is often referred to as intrinsic *value*, which works as a kind of placeholder for whatever it is we should in the final analysis maximise, be it happiness, desire satisfaction, knowledge, friendship, or whatever. The role of value in deontology is very different, however. When it is claimed that an innocent human life possesses value, this does not mean that it possesses a value to be maximised. Its value is rather something that should be respected. It is like a strict taboo: *noli me tangere*! So when the

deontologist claims that we are not allowed to kill an innocent human being, because of its inherent value, it is not a sound objection to say that the being in question does not enjoy her life. The kind of value a life has in deontological thought is independent of how it is experienced by the one living it. To be alive is certainly a prerequisite for enjoying all sorts of good (and bad) things in life, but the deontological value of a life cannot be accounted for in terms of the value it renders possible. It is valuable as such. No trade-offs are possible. It is also common here to speak of *dignity* rather than value, to stress the difference.

When we meet with deontology in its present Thomistic form, which I will from now on speak of as *the sanctity of life doctrine*, it may be taken to have religious implications. And, of course, many who defend the sanctity of life doctrine take up a religious stance to ethics. They claim that the innocent human life has value because it is a gift from God. Note, however, that it is possible to accept the doctrine even if you do not believe in God. The value can be there for some intrinsic reason. As a matter of fact, most adherents of the view claim that the view should be accepted on its own credits, without any reference to God. Our value is indeed intrinsic, that is, dependent only on our own intrinsic nature, not on our origin.

As we shall see, there are different ideas among deontologists about what it is that grants intrinsic value or dignity to our human lives. According to Kant it has to do with our rational capacity, which grants us a special dignity and value, while, according to the sanctity of life doctrine, our value is grounded in the very fact that we are human organisms. Our inherent value and dignity *qua* human organisms is thought to render it wrong to kill us.

But *is* it always wrong to kill? Let us now look into some examples.

The trolley-cases

One would perhaps expect that deontological ethics should prohibit killing, even killing in order to save lives. However, the trolley-cases are instructive in showing that this is not always the case. In the first trolley-case, The Switch, it seems plausible to say, at least if we apply the principle of double effect, that it is all right to flick the switch. Here the death of the person on the sidetrack is a sad, merely foreseen side effect, when we save the five. Had

there been a third track, without any person on it, we would have turned the trolley into that track instead.

Could one say the same thing about the Footbridge case and The Loop? Perhaps one can. After all, when I push the big man, I do not intend his death. I merely use him as a means to save the five. If I could have used him in a manner that meant that he would have survived, I would have done so. The same goes for The Loop, of course. If I could have dressed the big man in armour, before I used him, I would have done so, we may assume.

Does this mean that the principle of double effect has been given a much too liberal interpretation? After all, the sanctity of life doctrine, with its appeal to the principle of double effect, now seems to give the same verdict in the three trolley-cases as utilitarianism.

It is still different from utilitarianism. Remember that it does forbid intentional killing, when such killing takes place (such as in murder, and, as we will see, in euthanasia and in abortion).

Here Kant's second version of the categorical imperative seems to yield a different verdict, however. When I push the big man onto the track, or when I take advantage of the fact that he is on the track in The Loop, I do use him as a mere means. But this is not acceptable, according to Kant, not even if I use him as a means to a noble end (to save the five).

We arrive at conflicting verdicts from the two deontological theories, the sanctity of life doctrine and Kantianism. This means that both theories cannot be correct. Which one gives the most plausible verdict?

Euthanasia

We have seen that the principle of double effect allows the adherent of the sanctity of life doctrine some room for the hastening of death of patients who ask for help to die. Painkillers can be given, killing the pain and also, as a foreseen side effect, the patient. However, the more skilled the physicians become in their handling of painkillers, the less room will there be for this kind of hastening of death. And there is another kind of hastening of death which takes place in Western medicine, that cannot be endorsed by those who adhere to a strict prohibition against intentional killing of human beings: *euthanasia*. I here think of euthanasia as *the active and intentional killing of a patient*

in order to relieve her suffering. Euthanasia is allowed in the Netherlands, in Belgium and in Luxembourg, but forbidden elsewhere in the world. So it may seem as though deontology in both strands is here in line with how most people think (or at least in line with how most politicians think). However, there is another way of hastening death which is accepted in Western medicine, but which cannot be accepted by deontologists claiming that it is wrong intentionally to kill innocent human beings. In Western medicine it is accepted practice that a patient who does not want to stay on life-supporting equipment, such as a ventilator, has the right to have it removed. When the ventilator is removed, the patient dies. It also happens that patients who have ended up in a persistent vegetative state are no longer fed through their tube. Is the patient then killed? Well, it makes some sense to say that the patient is killed in both these cases, where she could have gone on with her life of an indefinite time; but she is not killed actively. In both cases she is just allowed to die. It is because she cannot feed herself, when the ventilator is removed or the tube-feeding stopped, that she dies, not because she is actively killed. I suppose that it is this way of seeing matters that renders such forms of killing acceptable even to many who are opposed to euthanasia.

The (controversial) distinction between acts and omissions, between doing and allowing, plays a crucial role not only in common sense morality, but also in what will be discussed in the next chapter, the theory of rights, but it plays no role in deontology. So even if it does perhaps make sense to say that it is only through an act of omission that the doctor kills her patient when she removes the ventilator, or stops tube-feeding her patient, the action (the inaction) is still plain wrong, according to the views here under scrutiny. It is no coincidence, therefore, that the Pope protests when people are allowed in circumstances such as these to die.

Abortion

Kant did not condemn abortion. The best explanation for this is that he did not think that foetuses were capable of rational thought or agency. However, the sanctity of life doctrine, with its insistence that innocent human life is sacred, rejects abortion on principled grounds. It is only when the killing of a foetus can be seen as a merely foreseen side effect of an effort to save the life of

a pregnant woman, that it can be accepted. Even if the foetus is a result of rape, it should not be killed. It is the rapist, not the foetus, who is to blame for what has happened. And the pregnant woman has to endure.

Do the adherents of the view make some kind of metaphysical mistake when they claim that a foetus is an innocent human being? Well, its innocence can hardly be doubted. What about its human nature?

It is controversial whether we who are grown-up people have ever been foetuses, let alone embryos. There are ideas about personal identity according to which this is not so. These ideas rely on psychological criteria of our identity. However, these views fly in the face of our ordinary ways of thinking about our identity, and there are also many philosophers who claim that we, human beings, are indeed human organisms, who have been both foetuses and embryos. These views are in no way spectacular, and the advocates of the sanctity of life doctrine typically rely on them in their defence of their view.

It is sometimes objected that, since an early embryo can split and give rise to two individuals, it cannot be one human organism. But there are several ways the adherent of the sanctity of life doctrine can respond to this. The most natural one is to say that when the early embryo divides into two, it dies. So even if most lives begin at conception, some begin with 'twinning'.

Somewhat unexpectedly, then, those who defend the sanctity of life doctrine are animalists. And given animalism, their view makes good metaphysical sense. But does it also make good moral sense? Is it always wrong intentionally to kill an embryo?

One problem with this view on abortion is that unless you believe God made man in his image it is hard to understand why it is so special to be a *human* organism. What about the Neanderthals? Was it all right for them to have abortions? If it was, is not this 'speciesism', and hence no better than racism or sexism, it has been asked.

A way of avoiding this objection is to strike a middle ground between the two strands of deontology; you claim that a foetus owns its value, not to its human nature, but to its *potentiality* of becoming a rational being. That's why we must not destroy it. And also a Neanderthal is a rational being.

Of course, not all embryos or foetuses have a potential to become rational beings but, in order to err on the right side, unless

we know of an individual embryo or foetus that it lacks this potential, we should treat it with respect.

Suicide

Both Kant and those who adhere to the sanctity of life doctrine prohibit suicide. What do they mean by suicide? I think it might be helpful to work with a definition roughly along the following lines. To commit suicide is *intentionally and deliberately to kill oneself, through an act or an omission, in a situation where one could have gone on with one's life for an indefinite time.*

This is a rather narrow definition. It does not include physician-assisted suicide, where the person who commits suicide is, anyway, close to death. It does not include 'suicide bombers' either, who sacrifice themselves, as a foreseen side effect, when they kill the enemy. All this is as it should be. It does cover those who deliberately kill themselves actively, or as the result of a hunger strike, say, in order to deliver a political message. Again, this is as it should be. On this definition, suicide may be a rare phenomenon. The requirement that the act should be deliberate is probably seldom met. Again this is as it should be. Many people who kill themselves do so under the influence of a mental disorder, and there is little point in pondering whether they should have acted otherwise. The definition still captures something that is indeed forbidden according to deontology. In this, deontology is different not only from utilitarianism and egoism, but from much early Western philosophical tradition; suicide was not seen as a very intricate problem until the end of antiquity. Among the Hellenistic philosophers, many saw suicide as a natural option. Many stoic and epicurean philosophers killed themselves, such as Zeno, Diogenes, Lucretius Carus, Cato and Seneca. Epictetus famously claimed:

To summarize: remember that the door is open. Do not be more cowardly than children, but just as they say, when the game no longer pleases them, 'I will play no more', you too, when things seem that way to you, should merely say, 'I will play no more', and so depart; but if you stay, stop moaning. (*Discourses*, 1.24.20)

But Kant thinks differently. The opposition to suicide had started already with St Augustine and Thomas Aquinas followed suite. Why do these thinkers condemn suicide? Why did Kant

condemn suicide? This is what he has to say explicitly about it:

disposing of oneself as a mere means to some discretionary end is debasing humanity in one's person [...] (*Metaphysical Elements of Justice*, p. 423)

This is hard to accept. Even if we accept that we should not 'debase' humanity in ourselves, why does suicide mean that we do that? I doubt that there is a good answer to this question. However, this does not mean that suicide is not always wrong. It only means that Kant has failed to give a good argument to this effect.

Those who adhere to the sanctity of life doctrine typically just claim that suicide is strictly forbidden because it means that innocent human life is intentionally taken, and this is wrong, period.

Is it wrong to kill yourself? Think of the following possibility. You end up alone on a desert island. You live there for twenty years. You realise that no one will ever come to your rescue. You have some more years to live, and your life up to now has been, if not fine, at least worth experiencing. At this stage you see no point in going on any longer, however. You contemplate whether you should kill yourself. You do as most people do, you banish the thought, and you go on with your life for, let us say, three additional years. You then die from old age in combination with some disease. These additional years contain more pain than pleasure. Your last hours are terrible. Did you do the right thing?

No, according to utilitarianism and egoism. You should have killed yourself. There would have been no bad side effects in the example, had you killed yourself. When you didn't, you made your life as a whole worse than it would have been, had you killed yourself. You did not maximise happiness (either in the world or in your life).

Yes, according to deontology, you did the right thing. It is always wrong to commit suicide.

Again we meet with conflicting answers, so both cannot be right. Who is right?

The survival lottery

Think of the following problem. A broadcasting company is casting a reality TV show. The intention is to transport sixteen

people, together with the host of the show, to a small island in the Pacific Ocean. The members of the expedition will gather for successive tribal councils and cast their votes. One by one the members of the expedition will be voted off the island. Whoever is eventually left alone at the end of the show with the host is the 'Survivor' and wins a fortune.

On their way to the island, however, the plane they are travelling in develops a technical problem. After an emergency landing on the water in the middle of nowhere the aeroplane soon sinks, taking the crew with it into deep waters. The members of the expedition, together with the host of the show, however, succeed in swimming to a nearby island. Here they find themselves on wasteland. They possess one sharp knife and functioning lighter, they find a well which provides them with fresh water, they can make up a fire using driftwood which they collect on the shore, but there is nothing for them to eat: no fish, no game, no roots or vegetables. They wait for help but none arrives. After two weeks they realise that they will all probably starve to death. They gather for their first tribal council and agree to run a survival lottery. The 'winner' of the lottery will be held down by the rest, killed with the sharp knife, roasted over the fire and then consumed. One person a week will be killed in accordance with the rules of the lottery. Two members of the expedition declare that they are Kantians. They are not willing to take part in the lottery, and this is accepted by the rest. After several weeks five have been killed and eaten (among them the host of the show, who was the third to draw the killing ticket in the lottery). The two Kantians have meanwhile died from starvation and have been buried according to their wishes. Then a ship arrives and the nine survivors are rescued.

According to utilitarianism, the survivors have probably acted rightly. What better option was there? In this assessment the egoist will concur, of course. And both utilitarians and contractual egoists, who want in general to uphold a strong ban on murder, in order to feel safe in society, may, considering the fact that the lottery was fair and the Kantians were spared, allow that, in this case, no punishment should be meted out. The situation was exceptional so there is no point in persecuting the survivors. On the contrary, a utilitarian or ethical egoist may rather come to admire them for their wise decision and congratulate them on their good luck. According to Kantianism and the sanctity of life

doctrine, however, the survivors have acted wrongly. They are mass murderers who deserve a just punishment.

A just punishment

What then, according to deontological ethics, does a just punishment amount to? Utilitarians and egoists of the contractual variety want a system of punishments designed so that everyone can feel a maximum of security. This means that the system of criminal justice should prevent people from committing crimes by threatening them with those kinds of punishment that are best suited to the aim of preventing further crime. At the same time, those who do not commit crimes should feel reasonably certain that they will not be punished. The system is consistently looking forwards.

The goal of the system of punishment is very different, according to deontological ethics. When a person commits a crime this means, according to deontological ethics, that she becomes inflicted with guilt. And a guilty person deserves to be punished. The punishment should be given as an act of respect for the criminal, not for any reasons of expediency. If the system of punishment has a deterrent effect, then this is a 'second', double effect of the system. Those who have constructed the system may gratefully acknowledge this effect, but it must not be sought. The system should be consistently looking backwards.

The utilitarian or egoistic defence of a system of punishment does not require that people have *free will*. At least it is not required that free will exists in any deep metaphysical sense. It is enough, according to these views, that the existence of a system of punishment can make people behave more decently in relation to each other. The deontological system of punishment, however, places a heavy burden on the notion of free will. Unless the perpetrator of a specific criminal action was free to avoid committing it, it would not be fair to punish him. However, if the perpetrator was free to act otherwise, but chose to do evil, then the punishment is justified. Society owes the punishment to the perpetrator.

The most serious moral mistake a human being can make, as we have seen, according to both Kant and the sanctity of life doctrine, is intentionally killing an innocent human being. What is the appropriate punishment for this crime? What kind of punishment is it that we owe the murderer?

Kant did not hesitate in answering this question. A person who is guilty of murder deserves to die.

Capital punishment

For a utilitarian, or an ethical egoist pondering what kind of social contract to construct, the question of capital punishment is a pragmatic one. Utilitarians and ethical egoists do not adopt a principled stance on capital punishment. If they become convinced that a system of capital punishment offers a maximum of security in society, then they will defend it, otherwise not.

Or, could it be argued that capital punishment is so cruel and unusual that a utilitarian must at least object to it on that ground? This is hard to accept. The killing of a person convicted of murder can take a form similar to euthanasia. In which case it is not cruel for there is nothing unusual in murderers having to wait for their execution. Suddenly they know that they have only a short time left to live. But the same is true of a middle-aged person who catches a terminal disease. Such patients often ask themselves: 'Why did this happen to me?' Convicts on death row have one advantage over them: they know the answer.

So, in sum, there seem to exist no reasons to conclude that capital punishment is so cruel or unusual that it must, for that reason, be rejected by a utilitarian. Indeed, some utilitarians, such as J. S. Mill, have argued from reasons of humanity in *defence* of capital punishment, believing that long terms of imprisonment harm the murderer more than death.

I think it clear then that if they become convinced that capital punishment in terms of its deterrent effect is better than long prison sentences, then not only ethical egoists but utilitarians as well must come to accept it. A system of capital punishment that is an active deterrent against murder will render life more secure. The utilitarians, caring also for the welfare of perpetrators, will add that if capital punishment has a deterrent effect, those who are deterred from committing murder are also spared the sad fate of becoming murderers.

But if this is so, how can it be explained that so many utilitarians have argued against capital punishment? The reason is that they have doubted that the deterrent effect of capital punishment is better than long prison sentences. They have cited empirical evidence to this effect and have found reasons to believe

that, in some circumstances, a system of capital punishment may engender, rather than deter, murder. Think of those people who know that if arrested they will be convicted of murder and executed. They will have no reason whatever not to kill, in order to get away with what they have already done.

But note that neither the utilitarians nor the ethical egoists are principled in their rejection of capital punishment when they reject it. And some of them defend it, making other empirical assumptions than the ones referred to here.

The situation is very different for adherents of deontological ethics. According to them, there is an intimate relation between wrongdoing, guilt and deserved punishment. The perpetrator, who is guilty of wrongdoing, deserves his or her punishment. Society owes the punishment to the criminal because of the crime committed. The purpose of the punishment is not future improvement, of either society or the criminal. The rationale behind the punishment can be found in the past, in the deed committed by the perpetrator. This is how Kant writes about this:

Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for civil society, but instead it must in all cases be imposed on him only on the ground that he has committed a crime. (*Metaphysical Elements of Justice*, p. 138)

The same argument applies to capital punishment:

Even if a civil society were to dissolve itself by common agreement of all its members (for example, if the people inhabiting an island decided to separate and disperse themselves around the world), the last murderer remaining in prison must first be executed, so that everyone will duly receive what his actions are worth and so that the bloodguilt thereof will not be fixed on the people because they failed to insist on carrying out the punishment; for if they fail to do so, they may be regarded as accomplices in this public violation of legal justice. (*Metaphysical Elements of Justice*, p. 140)

Capital punishment can be seen as the expression of the utmost reverence for the murderer. He has in his deed expressed the view that life can be taken. Then it is only right, if we want to treat him as a rational being, that his life should be taken. However, those who find this too cruel may argue, of course, that human life, innocent or not, is so sacred that even the execution of a murderer is an act of murder. The Pope used to argue, following Thomas Aquinas, and in accordance with the view put forward by Kant,

that murderers deserve to be executed. Nowadays, however, the Vatican has adopted the latter stance and campaigns for the abolition of capital punishment.

Should we accept deontology?

We have learnt something about the consequences of applying deontology in its two main strands, Kantianism and the sanctity of life doctrine, to different kinds of actions, and we should try to sum up what we have found.

In the trolley examples the two strands of deontology seem to yield conflicting verdicts. This means that they cannot both be right. But which one gives the more plausible verdicts in the examples? For now I leave this for the reader to ponder; I return to the question in the concluding chapter.

We saw with respect to suicide that deontology does prohibit it. I suppose that some will find this verdict cruel. Others will accept it. They will perhaps make a reference to Ludwig Wittgenstein, who famously wrote:

If suicide is allowed then everything is allowed. If anything is not allowed then suicide is not allowed. This throws a light on the nature of ethics, for suicide is, so to speak, the elementary sin. (*Notebooks 1914–1916*)

In relation to euthanasia we found that deontology in the form of the sanctity of life doctrine does allow some hastening of death, that can be described as not intentional, but that it cannot accept that patients, who could have gone on with their lives for an indefinite period, are ‘allowed’ to die. Should we abandon deontology and broaden medical practice to include euthanasia? Or, should we stick to it and forbid even passive killing of patients? These are difficult questions that invite further thought and also further empirical examination of the effects of various possible kinds of legislation.

In their stance on abortion we have once again found an important difference between the two strands of deontological thought. Kant has no objection, since foetuses are not capable of rational thought. Those who accept the sanctity of life doctrine condemn abortion on principled grounds, however, since they take the foetus to be an innocent human organism, and as such sacred. Again, both views cannot be right. Some people find

that the sanctity of life doctrine is most urgently needed in the discussion about abortion, since it is the only moral stance that caters for the needs of those human individuals who are most vulnerable. Others find it absurd that a woman who is pregnant because of rape should not be allowed to have an abortion.

The survival lottery may be thought to provide us with a problematic case. Here deontological ethics and the sanctity of life doctrine lead us to the conclusion that the survivors are murderers. Can this really be an acceptable conclusion? And if it is, should they even be executed?

To be sure, the adherent of utilitarianism or egoism would argue, if some people do not want to be part of any survival lottery, they should be allowed to feel certain that no one will force them to take part in it. And it would be reasonable to punish anyone who had forced a Kantian into such a lottery. But in the example we discussed the Kantians were exempted from the lottery. So what wrong has been committed? Should not the Kantians, who do not want to take part in the lottery, at least tolerate it among those who consent? Why not tolerate a practice when otherwise all, rather than a few, will lose their lives?

What are we finally to say of the retributivism associated with deontological ethics? Is it true that we owe the punishment to the criminal? Can a criminal ever deserve capital punishment?

There are some difficult metaphysical problems with this view. We have seen that the view presupposes that we have, in ordinary circumstances, a free will. Is it true that we have such a thing as free will? There is no unanimity about this among those who have thought hard about the question. Even Kant himself had to admit that he made the assumption that we have free will, not because he saw any conclusive reason to this effect, but because the assumption was needed in his version of deontological ethics.

A utilitarian will find the retributivist view of punishment primitively atavistic, of course. According to the retributive view, a criminal should be punished even if, from a preventive point of view, there is no point in the punishment. But in that case the utilitarian would ask, why cause *unnecessary* pain to a criminal? There is no point in a system of punishment that has no deterrent effect. However, the adherent of retributivist deontological ethics will have an answer to this question. The pain inflicted through punishment, even if it does not deter from further crime, is far

from unnecessary. From a moral point of view, this is *necessary* pain.

Assume for a moment that the retributivist is right. Then what kind of punishment would be appropriate for murder? Should the retributivist accept capital punishment?

I think the retributivist is here facing a genuine dilemma. While the utilitarian or ethical egoist can adopt a pragmatic stance to capital punishment, accepting it if it tends to have good effects and otherwise rejecting it, the deontological retributivist seems to be trapped in either of two very extreme views. The retributivist will have to argue either that murderers should always be executed, even when this means no gain from the point of view of deterrence, or that they should never be executed, even when this means that we can save innocent human lives.

The former view, which was defended by Kant and which used to be the view of the Roman Catholic Church, strikes me as cruel, while the latter, which has now been adopted by the Vatican, strikes me as squeamish. But I suppose that by saying so, I am just expressing my own moral intuitions.

Further reading about deontological ethics

Kant's *Groundwork of the Metaphysics of Morals*, translated and edited by Mary Gregor with an introduction by Christine M. Korsgaard (Cambridge University Press, 1998) has here been quoted. Good introductions to Kant are Christine Korsgaard's *The Kingdom of Ends* (Cambridge University Press, 1996) and the classic text by Onora Nells (now O'Neill), *Acting on Principle: An Essay on Kantian Ethics* (Columbia University Press, 1975). For introductions to the Thomistic version of deontology, see John Finnis, *Natural Law and Natural Rights* (Clarendon Press, 1980) and Alan Donagan, *The Theory of Morality* (University of Chicago Press, 1977). An authoritative statement of the principle of double effect can be found in *New Catholic Encyclopedia* (McGraw-Hill, 1967). See also P. A. Woodward (ed.), *The Doctrine of Double Effect: Philosophers Debate a Controversial Moral Principle* (University of Notre Dame Press, 2001). The idea that fetuses owe their moral standing to their potentiality has been defended by Don Marquis, 'Why Abortion is Immoral', *Journal of Philosophy*, vol. 86, 1989, pp. 183–20. The Oxford psychologist Richard Ryder has coined the expression

‘speciesism’, in *Victims of Science: The Use of Animals in Research* (Davis-Poynter, 1975). The quotation from Epictetus is from *Discourses* (1.24.20). A version of the survival lottery is discussed in John Harris, *The Value of Life* (Routledge, 1985). The well-known quotations from Kant on suicide, crime and punishment are here taken from *Metaphysical Elements of Justice*, 2nd edition, translated by John Ladd (Hackett, 1999). Retributivist thought typically involves the idea that the severity of the punishment should be proportionate to the seriousness of the crime. For a critical discussion of that idea, see Jesper Ryberg, *The Ethics of Proportionate Punishment* (Springer, 2004). For an introduction to animalism, see Erik Olson, *The Human Animal* (Oxford University Press, 1997). I discuss capital punishment in B. Bradley, F. Feldman and J. Johansson, *Oxford Handbook of Philosophy and Death* (Oxford University Press, 2012). The quotation from Wittgenstein is from the concluding paragraphs of his *Notebooks 1914–1916*, trans G. E. M. Anscombe (Harper, 1961). For an elementary introduction to the problem of free will, see Thomas Nagel, *What Does It All Mean?* (Oxford University Press, 1987). Critical discussions of the sanctity of life doctrine can be found in Helga Kuhse, *The Sanctity-of-Life Doctrine in Medicine: A Critique* (Clarendon Press, 1987) and in Peter Singer, *Rethinking Life and Death* (St Martin’s, 1995). Arguments for and against euthanasia can be found in Wayne Sumner, *Assisted Death* (Oxford University Press, 2011) and in J. Keown, *Euthanasia, Ethics and Public Policy. An Argument against Legislation* (Cambridge University Press, 2002).