

Relevance and Conflict Problems

Relevance problems occur when we are not sure whether a moral principle applies in a particular situation because we are not sure whether a concept *truly* applies in the situation

Resolving Relevance Problems (Casuistry)

Relevance problems arise in cases where the application of a concept is unclear

So, it makes sense to look at cases where the concept's use is clear, and then compare the similarities and differences between the clear and unclear cases.

Positive paradigm case: a case where the concept very clearly applies (e.g. a clear case of using someone as a mere means)

Negative paradigm case: a case where the concept very clearly does not apply. (e.g. a clear case of **NOT** using someone as a mere means)

Intermediary cases: We start with cases only slightly different from the positive paradigm case and ending with cases only slightly different from the negative paradigm case.

One of these intermediary cases should be the case in question, which we can call the **test case**

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**Positive
Paradigm
Case**

Intermediate Cases

**Negative
Paradigm
Case**

C-P+

C-1

C-2

C-3

C-4

C-5

C-P-

Suppose C-3 is the test case.

List the morally relevant similarities and differences among the various cases

E.g. does the person fully understand what is required of them?

Why is this morally relevant?

Determine the boundaries of the concept: e.g. what should and should not be exploitation?

We may need a conventional choice (e.g. night begins at sunset, 6 p.m., etc.)

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Resolving Conflict Problems: *Conflict problems* occur when two or more principles seem to apply to a particular situation, but the principles require different and incompatible actions.

Two Engineering Ethics Principles:

- (1) "Engineers shall hold paramount the safety, health and welfare of the public in the performance of their professional duties."
- (2) "Engineers shall act in professional matters for each employer or client as faithful agents or trustees."

The case of Sue, the engineer: Her obligation to the public seems to conflict with her obligations to her employer and fellow employees.

Important: Conflicts between competing *obligations* are not between good and bad choices, but between competing goods, both of which cannot be fully realized.

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Ways to Resolve Value Conflicts:

A. Finding the Creative Middle Way: Try to satisfy both values, where either may be expressed in a modified form.

Most general moral rules tacitly imply an "all other things being equal" (*ceteris paribus*) qualifications.

e.g., "All other things being equal, engineers shall hold paramount the safety, health and welfare of the public in the performance of their professional duties."

But suppose the threat to the safety, health and welfare of the public is both uncertain and minimal. Suppose also that the obligation to the community includes an obligation to its economic well-being.

Then (here) following the rule to be a faithful agent and trustee does not actually conflict with the rule to protect the public.

Similarly, to act as "faithful agents and trustees" of one's employer doesn't mean an engineer must obey the employer no matter what this involves

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The most obvious criterion: The employee has an obligation to perform their job at work and not to do in their private life what interferes in a clear and direct way with on-the-job performance, *unless* a violation of an obligation to the public is involved

So, if a product is a serious threat to the safety and health of the public and the employer orders the engineer to conceal this information, the engineer should disobey the employer, even if the employer is not breaking any law by concealing danger

(B) Employing Lower-Level Considerations: If the force of the moral principles are evenly balanced, and both values can't be satisfied, sometimes lesser factors can "break the tie"

e.g., the effect on Sue's career and her fellow employees' jobs can become decisive

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(C) Making the Hard Choice: Sometimes one cannot resolve opposing principles, or use lower level considerations: One principle clearly trumps another.

e.g., Sue may not be able to settle with her bosses, and the public risk may be too severe; so she may have to see the government

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Ch. 9 Kant's Second Categorical Imperative

THE FORMULA OF THE END IN ITSELF

Good as a means to an end (extrinsically good things): Some things are good not in themselves but because they help to bring about other good things.

e.g. money isn't good in itself, since by itself it is just paper or bits of metal or digital code

rather, money is good because of what we can do with it, such as buy food, clothing, shelter, education, etc.

These further things might also be seen as good only in so far as they bring about other good things:

- food brings about health and continued life
- clothing provides protection from the elements and the snickers of the people around you
- shelter protects us from cold, wet, heat, and so on
- education makes it possible to earn still more money

At bottom, though all these goods seem to have life itself as a final end

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Good as an end in itself (intrinsically good things)

D₁: x is a means =df. there is something, y, that is an end in itself, and x contributes directly or indirectly, to the existence of y. (94)

Some other candidates for ends in themselves:

Mill: pleasure

G. E. Moore: the love of beauty

Plato: knowledge



Moore held that something is good in itself if and only if "it would still be good even if it existed in complete isolation" (95)

Kant: argued that "rational nature exists as an end in itself" because, ultimately, something could only have a purpose to a rational being; i.e. rational beings create purposes

If so, rational beings are good in themselves

Kant offered several versions of *C₁₂*

"Act in such a way that you always treat humanity, whether in your own person in in the person of any other, never simply as a means, but always at the same time as an end."

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“As a rational being, by his very nature an end and consequently an end in himself, must serve for every maxim as a condition limiting all merely relative and arbitrary ends.”

“So act in relation to every rational being (both to yourself and to others) that he may at the same time count in your maxim as an end in himself” (95)

Cl₂: An act is morally right if and only if the agent, in performing it, refrains from treating any person merely as a means.

“Merely as a means”: Kant doesn’t mean that we should never use other rational beings *at all*, since we are social beings, and so constantly rely on the aid of others

Rather, we can treat others as a means to our own ends, so long as we do not treat them **only** as a means to our ends, but also respect them as ends in themselves

That is, we cannot use others for our own purposes, unless we simultaneously recognize and respect their own purposes

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AN ARGUMENT FOR *Cl₂*

Kant argues, in effect, that if anything is an end in itself, “there is a true moral principle [that it] ought to be treated as if it were good as an end in itself.” (96)

Are people ends in themselves?

“Persons ... are not merely subjective ends whose existence as an object of our actions has a value *for us*: they are *objective ends*—that is, things whose existence is in itself an end, and indeed an end such that in its place we can put no other end to which they should serve *simply* as means; for unless this is so, nothing at all of *absolute* value would be found anywhere. But if all value were ... contingent—then no supreme principle could be found for reason at all” (96)

Formally:

- 1.If people are not ends in themselves, then nothing is an end in itself.
- 2.If nothing is an end in itself, then there is never any reason to act in one way rather than in any other.
- 3.There is sometimes a reason to act in one way rather than in another.
- 4.Therefore, people are ends in themselves. (96)

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Evaluating soundness:

Premise 2: Not everything can be a means to another end; at some point we must come to things that are ends in themselves—other things are means to their ends, but they, themselves, are not means to other ends

So “if there’s nothing good as an end in itself, then there is nothing good either as an end or as a means” (97)

Premise 3 simply says there really are moral reasons to behave one way rather than another

What about (1)? Kant says that unless people were ends in themselves, there couldn’t be any absolute value, but he doesn’t say why he believes this

In fact, some philosophers actually believe that people aren’t ends in themselves, but pleasure, beauty or ... is ultimately good

PROBLEMS FOR *Cl₂*

Feldman argues that the main problem with *Cl₂*, is that we are never given any clear definition of “treating someone merely as a means”

- Slaves are an obvious case.
- A rude, selfish diner?
- Freeloader?

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Feldman’s complaint: “using someone as a mere means” is not sharply defined

But, as we’ve seen, since this is a problem for concepts in general, it’s not necessarily a critical problem for Kant

Kant’s examples for *Cl₂*:

A person who commits suicide uses themselves as a means to ending their pain

This seems a strained example

The lying promise: Someone who makes a promise they don’t intend to keep is “intending to make use of the other man merely as a means to an end he does not share” and that this other person “cannot possibly agree with my way of behaving to him” (98)

This suggests:

D₂: A treats B merely as a means =df. A treats B in such a way that if B knew all about it, B would not want A to treat him in that way. (98)

Problem: suppose B wants to do something wrong (to you, say) and you prevent B from doing this (e.g. copy your answers on an exam, take your bike, steal your lunch, make you look bad in front of others, etc.)

D₂ would seem to make it wrong for you to interfere

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Talent rusting and CI_2

Kant now argues that the person who lets their talents rust doesn't "harmonize with" and 'promote' humanity as an end in itself" (99)

But (Feldman) CI_2 only tells us not to treat people as a mere means

Still (TK), CI_2 tells us that we are not to use others as a mere means, since they (and thus) humanity are ends in themselves

Kant may be saying that if someone fails to develop their talents they thereby fail to respect the very thing that makes human beings ends in themselves

CI_2 and failing to give to charity: Kant says, that when we can, we must help others, since if we do not, we fail to treat them as ends in themselves

All of us, as rational agents, have purposes or goals, and this is the essence of our rationality

So to ignore the basic needs of others (*all of them*) is to fail in our (imperfect) duty to meet our own and others' needs

The following formulation however, is also incomplete:

D_3 : A treats B merely as a means =df. B has some goal, and A could help B achieve that goal, but A refrains from doing so. (99)

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The obvious problem is that B's goals may be wrong-headed

Clearly, we want the goals that B has to be ones that themselves pass the test of the categorical imperative(s)

We can call such goals "rational"

This leads to a more adequate version of treating someone as a mere means:

D_4 : A treats B merely as a means =df. B has some *rational* goal, and A could help B achieve that goal, but A refrains from doing so. (100)

Question: Suppose that, by my actions, I can only help B, but not C, achieve their goals: Do I thereby treat C as a mere means?

Feldman seems to think that this formulation of the CI_2 implies this?

Does it?

What is a "rational goal"?

THE FORMULA OF AUTONOMY

Two types of reasons or motivations for action: *inclination* and *duty*

By "inclination," Kant means desires for reward or fear of consequences (utilitarian motivations?)

Kant holds that any action done solely from inclination doesn't have moral value

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Thus, even if someone does what is morally required, but does it primarily because of pleasure or fear, that action has no moral worth

For example, if a person visits their sick friend just because everyone expects it, or because they get pleasure from comforting people, Kant would say that their action has no *moral value*

Note: Kant isn't saying such actions have no value at all, only that, because the reason for doing them isn't based on morality itself, they're not *moral* actions

By contrast, the same behaviour would have moral value, if the person visits their sick friend, because it is the right thing to do (as determined by the CI)

Feldman: "...an act has moral worth only if it is motivated by a sense of duty strong enough to produce the act even in the absence of all inclination" (101)

Fear of hell or desire for heaven are not morally relevant motivations

Kant's reason: inclinations are only accidentally or externally correlated with their outcomes

(A common critique of utilitarian motivations!)

So, while those who are sympathetic because they get pleasure from helping others, will *often* do so, their may be times, when they will not feel so sympathetic, and so will fail in their duty

Becoming a doctor for fame (or a thief, or murderer (Chapman))

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Two types of motivation for following a law:

1. Inclination: If we obey the law, we get safety and avoid the police

2. Autonomy: We obey the law, because we believe we have "made" the law ourselves (or would have said, me too, after considering it)

"...a person follows a law *autonomously* if [they follow] it primarily because [they] conceives of [themselves] as being the one who established it" (102)

By contrast, "...a person follows a law *heteronomously* if [they] follow it primarily because [they believe] that doing so will help [them] to satisfy some inclination" (102)

"...when [these philosophers] thought of man merely as subject to a law (whatever it might be), the law had to carry with it some interest in order to attract or compel, because it did not spring as a law from *his own* will: in order to conform with the law his will had to be necessitated by *something else* to act in a certain way. This absolutely inevitable conclusion meant that all the labour spent in trying to find a supreme principle of duty was lost beyond recall; for what they discovered was never duty, but only the necessity of acting from a certain interest. This interest might be one's own or another's; but on such a view the imperative was bound to be always a conditioned one and could not possibly serve as a moral law. I will therefore call my principle the principle of the *Autonomy* of the will in contrast with all others, which I consequently class under *Heteronomy*" (103)

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This leads to a third version of the Categorical Imperative:

C3: An act is morally right if and only if the agent, in performing it, follows some law autonomously. (103)

“Holy wills”

Kant notes that the human will is split between acting from inclination (heteronomy) and acting from moral duty (autonomy)

He imagines a “holy will,” purified of inclination and acting only from duty

Feldman’s critique: “A bigot, or a racist, may act out of respect for a self-made principle. But since his principle is so obviously distorted, his acts are wrong. Even if the bigot acts purely out of selfless respect for what he takes to be the moral law, we condemn his acts.” (104)

Evaluate:

Summary: Kant has focused on fundamental moral insights, but his formulations **need work**

Insights: we shouldn’t act in ways we wouldn’t want others to act

Our actions should show respect for persons in themselves

True morality flows from self-understanding, rather than external pressure

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Conflict and relevance problems: The Sue Rodriguez case:

Background: Sue Rodriguez developed amyotrophic lateral sclerosis (Lou Gehrig’s disease)

She became unable to swallow, speak or even move without help

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” (106)



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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”

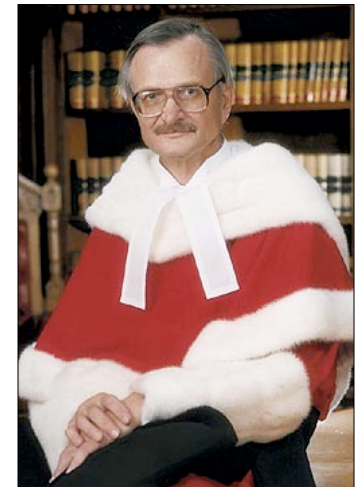
S. 15 concerns the right to equal protection and benefit of the law, which includes a prohibition against discrimination, of various sorts, including on the basis of disability.

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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”

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

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



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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?

Conflict problems: Which principle should trump in this case, 241(b) or s. 15?

Discussion questions:

Answer the previous questions. Can you think of a way that CI2 might support Rodriguez’s request? Explain

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Sample Midterm Multiple Choice Questions

1. We can show that an argument is invalid by:

- A. describing a situation, whether real or merely possible in which all or some of the premises are false, but the conclusion is true.
- B. showing that the conclusion of the argument is false.
- C. describing a situation, whether real or merely possible, in which all of the premises are true, but the conclusion is false.
- D. all of the above.
- E. none of the above.

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2. We use the subsumption test:

- A.to defend a value principle by appealing to a more basic value principle, such as universalizability.
- B.to see whether a value principle we are using applies to all relevantly similar case.
- C.to see whether we would still accept a value principle as fair, if it were also applied to us.
- D.to see whether a particular value principle subsumes correlated empirical or conceptual claims.

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3. Nozick's "experience machine" thought experiment:

- A. shows that, since maximizing one's own pleasure is morally required, a person should always choose to be hooked up to the machine
- B. reminds us that only "swine" would choose to hook themselves to the experience machine
- C. shows that, since such a perfect, pleasure machine isn't practically possible, utilitarianism remains a viable account of morality
- D. seeks to show that a direct connection with reality matters more to us than just experiencing maximal pleasure
- E. none of the above

4. According to the second formulation of Kant's categorical imperative:

- A. one ought never to use others as a mere means but must respect and help others to freely choose their own destiny.
- B. one can never use another person's services as a means to one's own ends.
- C. the needs of the many outweigh the needs of the few (or one).
- D. justice amounts to using others as a mere means, since meeting other's needs diminishes my freedom to choose my own destiny.
- E. none of the above.

5. Which of the following is a value statement:

- A. Ninety percent of people who answered the survey said that the bank executives should not receive their bonus money.
- B. The bank executives should not receive their bonus money.
- C. If you ought to do X, then you should do X, since "ought" is equivalent to "should."
- D. All of the above.
- E. None of the above.