HUMAN RIGHTS AND THE GREATEST GOOD

Bill Rhodes, Ph.D.
Christopher Wren Association
Philosophy

• Love of wisdom
• One (rough) way to “get located”
  – Natural – what is (no praise or blame)
  – Moral – what ought to be (conscience)
• This course involves both aspects
• And concentrates on theoretical justification of rights and its applied effects
An unavoidable event—no choices
An entirely avoidable mishap
Pilot-induced
And another . . .
Practical Philosophy

• Understand the world
• By making choices intelligently
  – Understand nature
  – “Control” the world (and ourselves) while working within and maybe exploiting natural laws
  – Public policy; personal choices
Understand Human nature

• And live better
• By making choices that respect it
  – Try to understand what it is to be human
  – Ethics is about how to behave with respect for human nature
  – And other aspects of nature too
• And maybe avoid becoming victims
• . . . of our own species or other natural forces
Branches of Philosophy

• Metaphysics
• Epistemology
• Logic
• Aesthetics
• “Philosophy of . . .”
• Ethics
  – “The normative science of human conduct”
  – Social, legal, and political philosophy
Ethics

• Two generally recognized (and interrelated) branches
• Virtue theory and the practical question: LMWL
  – What sort of person to be?
  – Commonly associated with ancient Greece; many modern adherents
  – Generally consistent with rights; little specific reference
• Decision theories – choosing
  – Ancient roots; enlightenment – present day
  – Deontology
  – Consequentialism
  – Grounds much of modern rights-talk
Human Rights

• Fairly remarkable in global perspective
• Liberal (free) democracies – modern and Western
  – Free expression
  – Acknowledge conflict
  – Optimistic
  – Equality
• Dictatorships, theocracies, communist nations
  – Contrast to, say, N. Korea or Iran
• And in historical
  – VA in 1800
  – US women in 1919
Now much of today’s rights-talk

• Seems to be about “getting what I deserve”
• Often has to do with lists of rights
  – And, maybe, adding to it
• Often results in bickering or claims that some decision is unfair
• For interesting lists:
  – English Bill of Rights 1689
  – VA Declaration of Rights 1776
  – US Bill of Rights 1791
  – UN Declaration of Human Rights 1948
Our focus is more fundamental

• What are rights?
• If they exist how do we know it?
• Are some rights “rightier” than others?
• What do rights *mean* to us practically?
  – Private conduct
  – Public policy and law
• There *are* wrong answers
• Also better and worse answers
And so . . .

- The wayback machine
  - To Thomas Hobbes’s *Leviathan* (1651)
  - Generally empirical
  - Naturalism
    - No (direct) appeal to anything supernatural
    - Claims about reality and about human nature
  - “Molecules in motion”
    - Materialistic
    - Mechanistic
    - Deterministic – natural laws
The State of Nature

• Equality of powers
• Limited resources
• Competition, diffidence, and glory cause quarrels (war of all against all)
• Solitary, poor, nasty, brutish and short
• Might help to think of a forest
• . . . or international relations
• Right of nature
• Laws of nature
Natural Right and Natural Laws

• Right: “. . . the liberty each man has to use his own power, as he will himself, for the preservation of his own nature . . .”

• Law: “. . . a general rule, found out by reason, by which a man is forbidden to do what is destructive of his life or takes away the means of preserving the same . . .”

• Natural Law’s tension with right of nature
Add in a little thought . . .

• It is in everyone’s interest to seek peace
• But the right of nature cannot be denied
• Accordingly, “be willing, when others are so too, as far forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things, and be contented with so much liberty against other men as he would allow other men against himself.”
And now we have the basis for contracts

• Give up liberty, obtain security
• Just how far this goes will vary with the contracting parties – “positive law”
• But, how enforced?
• Create a power to overawe everyone
• Some may wish to challenge it; they cannot prevail if the government is successful
• Consent . . .
Virtue with/without contract

- In war, “force and fraud”
- Under a government – obedience
- Law (& enforcement) as limiting liberty
- Law (& enforcement) as defending rights
- Mutual interest in maintaining peace, “law and order”
There’s a LOT more to Hobbes

• But we’ll leave that for another time
• Move now to late 18\textsuperscript{th} – mid 19\textsuperscript{th} centuries
• And a wider angle on the problem
• Hobbes’s empirical approach expanded
  – Lots of empiricist figures in history, especially English history
  – We’ll concentrate on two; Bentham and Mill
Epistemology and “Human nature”

• How do we know what we claim to know?
• What’s the most reliable source of knowledge?
  – Religion and tradition – medieval
  – Careful observation through senses – enlightenment onward (for most in the West)
  – Rationality’s role?
Bentham (1748-1832)

- Reformer -- especially to law; challenges to religion in England
- Helped found UCL
- Many consider him the father of utilitarianism
- Utility to be the basis of law
- Put differently, law is for our happiness
Happiness

• Instead of mere “moralism,” derived from intuitions, laws should promote happiness (utility) and/or reduce suffering
• “Nature has placed mankind under the governance of two sovereign masters, pain and pleasure.”
• Greatest happiness for the greatest number
Sense-data

• The data of scientific investigation
• Properly understood, use it to create machines, medicines, etc.
• And public policy
  – Punishment for criminals
  – Eliminate certain practices
• And to make decisions for ourselves “scientifically” (but rather crudely)
  – “Hedonic calculus”
In modern ethics circles

• Bentham is regarded as an important foundation . . .

• . . . for J. S. Mill’s much more refined Utilitarianism – many modern day followers
  – Everyone counts as one
  – Greatest good for the greatest number - optimize
  – Happiness is the good
  – Pleasures vary in quality
J. S. Mill (1806 – 1873)
Utilitarian fundamentals: Equality

- Democratic; reform
- Everyone can experience sensations; ability to sense is the ticket to membership in the moral universe
  - Animals?
- Numbers matter \((G^3N)\) -- quantitative
- Privilege does not
Fundamentals: Happiness

• Pleasure
  – But, not all pleasures are equally good
  – Pushpin and poetry qualitatively different

• Quality counts as well as quantity
  – Thinking about economics might help here
  – How to assess quality? Can’t really be counted

• Once again, an appeal . . .
  – To empirical data
Sicklied o’er with the pale cast?

- Act utilitarianism
- Suppose we have a case where injustice is expedient
- Not so with Mill
- Massed, competent empirical experience is key
- Competent judges
- Predicting the future is hard, but not *that* hard
Rule vs act utilitarianism

- Calculate the consequences of each and every act?
- Form rules for all to follow and test?
- Among the “rules” we’d find increase happiness – behave justly
- Violating rights is unjust behavior
  - And, for the thoughtful among us, results in unhappiness
The capacity to sense?

- The quality distinction: Higher and lower pleasures
- Dog – kid – adult - educated adult
- We have capacities for empathy and sympathy
- Cultivate these in self, and others.
- Think of reactions to others’ misfortunes
  - And how cultivating sensitivity might lead to the reduction in suffering
- Aiding others?
Enhance capability to enjoy

- “Capacity for the nobler feelings is in most natures a very tender plant, easily killed, not only by hostile influences, but by mere want of sustenance; and in the majority of young persons it speedily dies away if the occupations to which their position in life has devoted them, and the society into which it has thrown them, are not favourable to keeping that higher capacity in exercise.” (148)
Service

• A higher quality pleasure for those adequately cultivated
• Defend/promulgate rights
• In particular, freedom to pursue happiness but, like Hobbes, not to interfere with others without their consent
• What makes honorable behavior honorable?
"War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks that nothing is worth a war, is much worse. When a people are used as mere human instruments for firing cannon or thrusting bayonets, in the service and for the selfish purposes of a master, such war degrades a people. A war to protect other human beings against tyrannical injustice; a war to give victory to their own ideas of right and good, and which is their own war, carried on for an honest purpose by their free choice, — is often the means of their regeneration. A man who has nothing which he is willing to fight for, nothing which he cares more about than he does about his personal safety, is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men than himself. As long as justice and injustice have not terminated their ever-renewing fight for ascendancy in the affairs of mankind, human beings must be willing, when need is, to do battle for the one against the other “ (Contest in America)
Explication of “moral sense”

• Check instances when one has done a good deed
  – Does Mill capture what we honor?
• Empathy as an underlying, necessary condition
  – Missing or undeveloped in some of us?
• Utilitarianism complete and coherent?
“Random acts” and strategic campaigns for utility

• The moral quality is in the act’s consequence
  – Small decisions
  – Grand reforms
  – Sacrifice; honorable behavior
  – Reduction of suffering --optimization

• Suppose there’s a criminal act
  – Deliberate disutility
  – Natural sense of empathy and impulse to punish
Rights, Law, & Duties

- Ethics logically precedent; room for judgment
- Freedom to pursue utility within limits of the general utility
- Impartiality from the PTB
- Equal treatment
  - Remember the era; race, sex, etc.
- Keeping contracts
Rights, Laws, and Duties 2

- Many choices to be free from regulation
- Bad laws? Those that violate *moral* right
  - Participate – mindful law breaking for reform?
- Experiment
- Rights impose duties, and duties may justly be *required*
- Cannot require what we would *like* others to do
Dignity

• Develop higher faculties – upside exceeds down
  – Capacity for the “finer feelings”
  – In matters small and large
  – Enhanced suffering

• “Better Socrates dissatisfied that a fool satisfied”

• Who would (really) choose to be the fool?
Objections

• A “doctrine of swine”
• Requires impossible predictions
• Mischaracterizes humanity
  – Empirical limits
• Mischaracterizes morality
  – More to it than consequences
  – Resultant drive to involve more than pleasure as components of utility (e.g., friendship, beauty)
Sometimes there are Tensions

• Consequences vs. duty
• Utilitarians are consequentialists – distinctions between doing and allowing harm?
• Deontologists concentrate on the act itself – doing is more important than allowing
  – Ought I to lie to save lives?
  – Can we throw an unwilling innocent person out of a sinking lifeboat?
  – Shoot the prisoners?
  – And, of course, the trolley . . .
Trolley “Intuition Pump”
Tensions in Public Policy

- Euthanasia
  - Active and passive
  - Resource limitations
- IRBs, competitors
- Torture
- Countervalue targeting
  - WWII
  - Modern-day deterrence
- Animal Rights; agricultural land
Tensions in Public Policy 2

- Distributive justice
- Income inequality
  - Taxation
  - Benefits
  - Marginal utility
- Restorative vs. Retributive justice
- Privacy and the common good
VIRTUE ETHICISTS

DEONTOLOGISTS VS UTILITARIANS
Immanuel Kant (1724-1804)
Deontology

- Absolute (vs. consequentialism’s contingent nature)
- Immediate
- Prohibitions (usually)
- Action and motive for it are the focus
- Rationality is the source of moral data
- Robust account of conscience
- OK with consequences; not obsessed
The Good Will

• “It is impossible to conceive anything at all in the world, or even out of it, which can be taken as good without qualification, except a good will.” (393)

• Other qualities can be put to evil use

• And we cannot approve of happy people who do not have a good will

• Good will a condition of our worthiness to be happy
What makes a good will good?

• Not its effects
• But rather it is good in itself
• Think of a good will coupled to limited skills
• Would still “shine like a jewel for its own sake” (394)
• The will’s *usefulness* is morally irrelevant
• The concept of “useful” is contingent
Reason’s Functions

• (A teleological analysis)
  – Eyes are for seeing; ears for hearing
  – Eyes hear poorly; ears see poorly
• Now, reason
  – Ill-suited to self-preservation or making us happy
  – Compare to instinct
  – Indeed, the more we think about how to be happy, the more we fail to be happy and the more we envy the “common run of men” (396)
• Reason’s function – to make the will good – reveal duty
• Will as a psychic intersection
  – At the crossroads of reason and inclination
  – Angels and animals have no need
Conscience

• Consider the individual, subjective experience
  – All of nature accords with laws; only a rational being can *decide* to act according to law (412)
• Reason matters to us even if we do not act on it
• Accountability (own eyes upon us)
• “Reason has its own peculiar kind of contentment.” (386)
• Dualism -- “Battling Satan”; “Jihad”; “Better self”
Freedom and Determinism

- Dualism is a serious worry
  - Mind and brain (body)
  - Materialist reduction
  - Idealist reduction
  - Dual-aspect (Kant’s sort)
- Phenomenally determined, but . . .
- Noumenally free
- (I said this might be difficult . . . )
“Isolating variables” -- sorts of acts

• Contrary to duty (lie on taxes)
• In accordance with duty, with no immediate inclination, but with mediate inclination (refrain from lying because afraid of enforcement)
• In accordance with duty, but with mediate inclination (enjoy paying fair share)
• For the sake of duty (tell truth because it is a command of reason)
Acts *from* duty

- Are the only sort that genuinely embody ethical motives – to the degree that they spring from duty
- Other acts are from inclination
- Dutiful is not the same as “from duty” or “for the sake of duty”
- *Commanded* to love our enemy
- Intuition check time . . .
- Does this explain conscience; the subjective “ought”?
Motive

• An action done from duty has its moral worth 
  not in the purpose to be attained by it, but in 
  the maxim in accordance with which it is 
  decided upon.” (399)

• Put differently, the worth is in the principle 
  motivating the act

• “Says something” about me
Duty

• “Duty is the necessity to act out of reverence for the [rational, ethical] law.”

• I cannot revere inclinations

• I can revere rational law

• And this means I need to revere human beings

• (More on that later)
Imperatives (Oughts)

• Hypothetical: “If – then”
  – If I want to be wealthy, I ought to make wise investments
  – If I want to be wealthy, I ought to cheat the bank
  – Derived from experience (*a posteriori*)

• Categorical: No “ifs”
  – Commands all rational beings, universally, regardless of circumstances
  – *A priori*; cannot be derived from experience
Heteronomy and Autonomy

• Heteronomy
  – Inclinations
  – Pressure from others

• Autonomy
  – Commands to self from reason
  – Freedom from “animal” self and others

• Reflect on this; e.g. Huck Finn and Jim

• Match intuitions and experience subjectively?
Categorical imperative

• The “supreme principle” of practical reason (deciding)
• The moral law
• Only one CI, but many formulations
• Follow me closely here – all formulations point to respect for humans, their autonomy, and reason itself
Universal

• “I ought never to act except in such a way that I can also will that my maxim should become a universal law.”
• If the principle can be universalized, OK
• If not, the act is forbidden
• Not because of consequences
• But because of logical contradiction
  – False promise, for example
The CI; false promise example

• One might think, make a false promise and “get-away” with it
• But, imagine such a principle of action being universal
• That would undermine the very condition of promises (and believing them)
• A logical contradiction (rational being cannot will irrationality)
Autonomy

• “The idea of the will of every rational being as a will that makes universal law”
• That sort of freedom *inspires reverence*
• The will makes law for itself, and everyone else
Kingdom of Ends

- “[R]ational beings all stand under the law that each of them should treat himself and all others never merely as a means but always at the same time an an end in himself.” (433)
- A “kingdom of ends” emerges
- Each of us rules; harmony under rational law
Rights

• Derive from rationality itself
• Equality
• Autonomy
• Membership depends on rationality
• Consent and the freedom it presupposes
  – OK to treat others as means and ends (contracts, informed consent)
  – Ripped-off or giving
  – 9/11 – which way on the stairs?
  – Similar outcomes, with important moral distinctions
Rights (2)

• Absolutely inviolable – impose duty
• We know this immediately, and certainly
• Perfect duty to respect rights (justice)
  – Fairly unrestrictive, really
  – Do not do evil
• Imperfect duties (charity)
  – Most other (utilitarian-style) duties
  – “Happy to have them”
Never, ever, ever . . .

• Commit a *certain* evil
• To produce a *possible* good
• Most of our kind acts respect this principle
• Except when they don’t – multiple examples
  – Lying to save lives
  – Break promise to millionaire
• Back to the tension where refraining from doing harm allows more of it
Duty – provide what is deserved

• Respect
  – Keep promises
  – Do not deceive
  – Do not cheat
  – Do not steal
  – Award benefits in accord with public rules
    • Students have the *right* to fail
  – Award punishments in accord with laws
    • Do not insult a rational criminal
Does “Ought imply Can”

- Kant never says it does
- Many infer it from his thought
- Otherwise we’d have a contradiction
- “Find a way” to prevent harm while respecting rights
- Postulates of morality
  - Freedom
  - God
  - Immortality
“Supreme Emergency”

- Violate rights in order to defend them
  - Grave and imminent danger
  - 1940 vs. later Bomber command
  - Nuclear deterrence
- Churchill in WWII
- Michael Walzer in 1970s
- Still have “dirty hands”
The “Veil of Ignorance”

- Public policy
- Consent of rational, informed, self-interested beings
- Know we’ll be engaged in contract
- Do not know what “station we will have under it”
- Will such an exercise produce more just policies?
  - Domestic government
  - Rules of warfare
Summary

• “Moral point of view” – objective
• Rights – Western Enlightenment roots
• Natural and “scientific”; generally consistent with but not derived from Western religious belief
• Based on “self-evident” premises
  – Self-preservation
  – Sense data
  – Conscience
• A basis for moral and legal/public policy progress
Summary (2)

• Some conflicts between theoretical accounts
• Generally similar practical application
• “Loose ends”
  – Absolute or defeasible
  – Justice and charity
  – Impartiality seems touch to achieve in practice
  – Ongoing academic and legal work
• A “good news” story – Human rights
Questions

• Ongoing inquiry
• That seems to be looking good so far
• But is by no means over