

12. Document from Ethics in Society Program Website: Examples of Moral Argument

Each of the subheadings below describes a different approach to moral argumentation.

The excerpts that follow each subheading have been gathered from articles or books that deal with normative issues, and have been cited accordingly.

Employ theory to explain confused intuitions.

The issue of food deprivation in rich America...raises questions of profound importance in understanding the nature of American poverty. Surprise is sometimes expressed at the fact that there could be any actual hunger in a country as rich as the United States, where even the poorest groups tend to have much higher incomes than the middle-classes in many poorer countries who may not be particularly bothered by hunger as such. To some extent the difference may be due to the fact that money buys less of some types of commodities in the richer countries. But even after corrections are made for these price differences, the paradoxical feature is still retained. Also, as it happens, food is not one of the items that are typically very much cheaper in the poorer countries than in the United States.

In explaining the apparent paradox, the capability perspective can help in two different ways. First, hunger and under nutrition are related both to food intake and to the ability to make nutritive use of that intake. The latter is deeply affected by general health conditions, and that in turn depends much on communal health care and public health provisions. This is precisely where the civic problems of health delivery and inequalities in health care can precipitate capability failures in health and nutrition even when person

incomes are not that low in international standards.

Second, being poor in a rich society itself is a capability handicap... Relative deprivation in the space of incomes can yield absolute deprivation in the space of capabilities. In a country that is generally rich, more income may be needed to buy enough commodities to achieve the same social functioning, such as “appearing in public without shame.” The same applies to the capability of “taking part in the life of the community.” These general social functionings impose commodity requirements that vary with what others in the community standardly have.

Amarthya Sen, *Inequality Reexamined* (Harvard 1992), pp. 114-115.

Draw upon material from the world not just to supply your paper with empirical facts, but also with reasons.

Here is the testimony of three surrogate mothers who value the experience for reasons that even those who would criticize their decision should not completely dismiss:

“I’m not going to cure cancer or become Mother Teresa, but a baby is one thing I can sort of give back, something I can give to someone who couldn’t have it any other way.”

“I think being a surrogate mother has made me a better person. Never a day goes by that I don’t thank the Lord for my own kids.”

“I’m an adult and I take responsibility for my actions. Being a surrogate mother

never seemed strange or wrong to me. In fact, to not help somebody would have been wrong.”

The testimony of these and other women is not decisive, but it casts some doubt on the claim that all women enter into surrogacy contracts involuntarily or against their better judgment...But advocates of prohibition [of contract pregnancies] can argue that we should look behind what the women say and consider the circumstances in which they say it. Perhaps women are not, strictly speaking, coerced into signing surrogacy contracts, but most make their decisions under conditions in which the alternative of surrogacy seems irresistible. In its general form this argument proves too much. It would invalidate many labor contracts that are ordinarily considered unobjectionable. All those employees who are poorer than those for whom they are working and would be even worse off if they did not enter into the contract would be regarded as being “driven by circumstances” into a labor contract. Nor does the evidence support the claim that most surrogate mothers are driven to their decision by financial need. Although only 15 percent of birth mothers surveyed say that they would have acted as surrogates even without compensation, only 1 percent says they did it for the money alone.

Amy Gutmann and Dennis Thompson, *Democracy and Disagreement* (Harvard, 1996), p. 246.

Preempt objections to your position.

The conception of equality-of-opportunity that I have described is not the conventional view. It appears to support a far more egalitarian society than we now have in the United

States. No doubt it will generate considerable disagreement. To forestall some of that, I will respond here to a few likely objections.

One criticism—suggested in the work of Ronald Dworkin—may be that the distinction between what a person is and is not responsible for is not the same as the distinction between what she has and has no control over. I have in fact assumed that those two distinctions are, by definition, the same. Dworkin's view may seem paradoxical; I shall try to make it less so by example. Suppose a child, who grows up in a poor family, whose parents lack education beyond primary school, who is exposed to no books in the home or any kind of high culture, develops preferences in which education has a low value. He does not care to become educated, and feels education will not make his life more successful. He identifies with these preferences, views them as intrinsic to who he is. Then Dworkin, I think, would have to say that such a child does not require any social compensation for the low level of education he acquires, and the consequent low income he earns.

Dworkin places tastes with which a person identifies, and the choices that follow from them, within the realm of personal responsibility, regardless of whether those tastes were formed or induced by factors over which the person had no control. I, on the other hand, do not make the distinction between autonomous and non-autonomous choice depend on what the person thinks, but rather on what society deems to be within or beyond a person's control. Thus, the unfortunate child I have just described, or the adult that child becomes, would be due social compensation under my notion of equal opportunity for

income, but not under Dworkin's.

John Roemer, "Egalitarianism and Responsibility," *Boston Review* (1993).

Acknowledge what is motivating you position.

"There are no frontiers for hunger. You have the right to look for opportunity wherever you can."

These are the words of Angel, a Mexican peasant who illegally entered the United States, worked for a few years, and was caught and deported. He was explaining to an American why he intended to return (illegally) again. Angel was making a moral claim about human rights. He was claiming that the poverty and lack of opportunity in Mexico gave him a moral right to seek work in the United States or anyplace else, and that the United States has no moral justification for excluding him. There are millions of Angels in the world—needy people who want to find decent conditions of life for themselves and their families, who see no real prospect of doing so in their native lands, and who consequently seek to immigrate to the United States and other rich Western countries.

Do we have any answer to Angel? Is the United States justified in keeping him out?

Leaving aside the question of whether our Angel is likely to dissuade Angel from coming. Is there any answer that is reasonable, an answer that persuades us that exclusion is morally justifiable? In most debates over immigration policy, Angel's voice is not even heard. The conventional moral view is that a country is justified in restricting immigration whenever it serves the national interest to do so.

Joseph Carens, “Immigration and the Welfare State,” *Democracy and the Welfare State* (Princeton, 1988), p. 207.

State your position and the larger theoretical issues underlying it.

I wish to explore in this paper one of the most common claims about immigration and the national interest: that restrictions on immigration are necessary to protect the liberal democratic welfare state. I should make clear at the outset that I am sympathetic to this argument. For all its limitations, the welfare state represents a significant, hard-won achievement that offers some protection to the most vulnerable members of American society against the worst harms of a capitalistic order. And I think it is reasonable to believe that unrestricted immigration, or even greatly expanded immigration, would significantly weaken the welfare state, at least in the foreseeable future. The question, however, is whether concern for the welfare state is sufficient to justify restricting immigration, if Angel’s claim is taken seriously. The inquiry has the broader goal as well: to examine the nature and purpose of political community and to raise questions about what forms of closure and what types of exclusion are justifiable for the sake of community.

Joseph Carens, “Immigration and the Welfare State,” *Democracy and the Welfare State* (Princeton, 1988), p. 208.

Give reasons for your intuitions that an argument is “implausible.”

But when are people responsible for these decisions, and in what degree? Roemer proposes that we answer this question as follows. First we are to list those factors

influencing decisions of the kind in question (say a decision whether or not to smoke) that we regard as beyond an agent's control (factors such as age, sex, race, social class, etc.). People alike in these factors are said to belong to the same "type," and a person's degree of responsibility (the amount of self-control and discipline that he or she exercised) is said to be reflected by their position in the distribution within their type: if almost everyone in Andrea's type smoked more years than she did, then she is less responsible for smoking than George, who smoked more than almost anyone in his type. In the limit, Roemer says, "if all 60 year old steelworkers smoked for thirty years, I would say that the choice of "not smoking" was not accessible to 60 year old steelworkers: as a 60 year old steelworker, one would have had effectively no opportunity except to smoke for thirty years."

As a general claim about responsibility, this does not seem very plausible. If all 70 year old citizens of Wisconsin with incomes over \$150,000 per year consistently vote for candidates who have taken a position favorable to them on Social Security and Medicare, we would not normally conclude, on this basis alone, that they had "effectively no opportunity" but to do so. When factors "beyond their control" give people in a given class strong reasons for acting a certain way, a uniform pattern behavior may result, but these people may still be fully responsible for what they do. We need to be careful here, however, not to mislead ourselves by failing to distinguish between different contrasts that the phrase "should be held responsible for" can be used to mark. On the one hand, to say that an agent can be held responsible for an action may be to say that he or she is properly subject to praise or blame for performing it. It is this sense that is called to mind

by the contrast between results that are due to an agent's "autonomous choice" and those that are due to factors "beyond his control." The citizens of Wisconsin in my example are clearly responsible in this sense for their voting behavior, and this makes it reasonable to argue about whether that behavior shows them to be greedy or just reasonably prudent.

T.M. Scanlon, "A Good Start: Symposium on Social Equality and Personal Responsibility," *Boston Review* (1993).

Acknowledge agreement where it exists.

I agree with the basic claim of Okin's paper—that a liberal egalitarian (and feminist) approach to multiculturalism must look carefully at intra-group inequalities, and specifically at gender inequalities, when examining the legitimacy of minority group rights. Justice within ethnocultural groups is as important as justice between ethnocultural groups. Group rights are permissible if they help promote justice between ethnocultural groups, but are impermissible if they create or exacerbate gender inequalities within the group.

In my recent work, I have tried to emphasize this point by distinguishing between two kinds of "group rights." Sometimes an ethnocultural group claims rights against its own members—in particular, the right to restrict individual choice in the name of cultural "tradition" or cultural "integrity." I call such group rights "internal restrictions," since their aim is to restrict the ability of individuals within the group (particularly women) to question, revise, or abandon traditional cultural roles and practices. A liberal theory of minority group rights, I have argued, cannot accept such internal restrictions, since they

violate the autonomy of individuals, and create injustice within the group.

However, liberals can accept a second sort of group rights--namely, rights which are claimed by a minority group against the larger society in order to reduce its vulnerability to the economic or political power of the larger society. Such rights, which I call "external protections," can take the form of language rights, guaranteed political representation, funding of ethnic media, land claims, compensation for historical injustice, or the regional devolution of power. All of these can help to promote justice between ethnocultural groups, by ensuring that members of the minority have the same effective capacity to promote their interests as the majority.

Will Kymlicka, "Liberal Complacencies: A response to Susan Okin's 'Is Multiculturalism Bad for Women?'" *Boston Review* (1999).

Consider the limits of hypothetical examples that are not taken from real world experiences.

Let me ask you to imagine this. You wake up in the morning and find yourself back to back in bed with an unconscious violinist – a famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you – we would never have permitted it if we had

known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did a great kindness. But do you have to accede to it? What if it were not nine months, but nine years? Or longer still?

Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy and Public Affairs* (1971).

Consider alternative positions to common debates. Avoid simple dichotomies.

Affirmative action programs remain controversial, I suspect, partly because of the familiar arguments for or against them start from significantly different moral perspectives. Thus I want to step back for a while from the details of debate about particular program and give attention to the moral viewpoints presupposed in different types of argument. My aim, more specifically, is to compare the "messages" expressed when affirmative action is defended from different moral perspectives. Exclusively forward-looking (for example, utilitarian) arguments, I suggest, tend to express the wrong message, but this is also true of a moral outlook that focuses exclusively on backward-looking (for example, reparation-based) arguments. However, a moral outlook that focuses on cross-temporal narrative values, such as mutually respectful social relations, suggests a more appropriate account of what affirmative action should try to express. Assessment of the message, admittedly, is only one aspect of a complex issue, but it is a relatively neglected one.

Thomas Hill, “The Message of Affirmative Action,” *Autonomy and Self-Respect* (Cambridge, 1992), p. 189.

Acknowledge the difficulty of theorizing in a way that is genuinely action-guiding.

When I began thinking about justice and health-care delivery, having spent much of the 1970s working on the problems in the general theory of justice, I thought it should be easy to “apply” to health care principles like those argued for by Rawls. I was in the grip of the false picture of “applied ethics.” Rawls’ principles were developed under special, idealizing assumptions: that fully functional people should specify principles of fair cooperation. No one was ill or disabled. I was immediately stymied. Should health care be governed by a principle aimed at making those who were worst off maximally well off? Or did Rawls’ theory need to add a new primary social good, health care? Or would some other principle do the job? Looking from the theory “down” to the system of delivery, it was quite unclear what “applying” the principles really meant.

I had to reverse directions to make any progress. I began to think directly about health care and the different kinds of things it does for us. I had to answer questions about why we might think some of those functions had special moral importance. I had to think about cases in which we felt that assisting people with medical services was an obligation and when we thought assisting them was not. Gradually, I focused on the generalization that disease and disability impairs the range of opportunities open to us, whereas health-care services that we think we are obliged to offer to people protects that range of opportunities. But even here the account of fair equality of opportunity had to be

broadened from its focus on access to jobs and offices.

To extend Rawls' theory meant not simply plugging in the facts but modifying the theory in modest and reasonable ways. My procedures required developing an account of what health care does for us and its importance that was sensitive to the wide variety of things health care does and captured many of our intuitive judgments and practices, such as insurance coverage. Only then did it become clear how to connect general principles—appropriately modified—to the world of institutions.

Norman Daniels, *Justice and Justification* (Cambridge, 1996), pp. 345-346.

Test your theorizing against your experience on the field.

Once I had developed an account of justice for health care that appealed to the fair equality of opportunity principles, I thought that principles would actually be able to guide us in some detail in designing institutions that allocated health-care resources equitably. I thought it would tell us how, under resource constraints, we should limit access to beneficial services. I have since concluded that the gap between principles and guidance in institutional design is quite wide and that we do not yet know how to fill it. Again, it was by examining actual cases of rationing decisions that it became apparent general principles fell short of offering adequate guidance...

One lesson from these examples is that work in ethical theory is enriched in deep ways by forcing the question of how the theory guides action into very specific areas of practice. It is much too easy for “pure” theory to think it offers guidance when it does not. We discover the problem only when we test theory against practice. To put

the point contentiously, “applied ethics” makes an essential contribution to “ethical theory.” Put more clearly, we fail to do our best work at either level if we do not see them as part of the same project.

Norman Daniels, *Justice and Justification* (Cambridge, 1996), pp. 346-347.

Clarify whether your criticism is an internal or external criticism—or some combination. The former type of critique argues that a conclusion follows from within a theory under scrutiny. The latter presents reasons not part of a theory to criticize that theory.

Internal Criticism

Rawls recognizes the cosmopolitan character of his theory by sketching, at least, how his criterion for assessing the institutions of a national society might be complemented by additional principles of justice governing international relations. This brief outline jars, however, with central commitments of his theory, chiefly his focus on the basic structure and his conception of all human beings as free and equal moral persons. These commitments would instead, I will argue, lead one to abandon Rawls’s primary emphasis on domestic institutions in favor of globalizing his entire conception of justice.

Thomas Pogge, *Realizing Rawls* (Cornell, 1989), p. 240.

There is strikingly little indication, throughout most of *A Theory of Justice*, that the modern liberal society to which the principles of justice are to be applied is deeply and pervasively gender-structured. Thus an ambiguity runs throughout his work, which is

continually noticeable to anyone reading it from a feminist perspective. On the one hand, as I shall argue, a consistent and wholehearted application of Rawls's liberal principles of justice can lead us to challenge fundamentally the gender system of our society. On the other hand, in his own account of his theory, this challenge is barely hinted at, much less developed. After critiquing Rawls' theory for its neglect of gender, I shall ask two related questions: What effects does a feminist reading of Rawls have on some of his fundamental ideas (particularly those most attacked by critics); and what undeveloped potential does the theory have for feminist critique, and in particular for our attempts to answer the question, Can justice co-exist with gender?

Susan Okin, *Justice, Gender, and the Family* (Basic Books, 1989), p. 90.

External Criticism

If the welfare state is to be democratic, the legislator who makes its policies must be responsible to the citizens affected by them. Responsibility requires that legislators explain their actions to the citizens they represent. Giving reasons is part of what being responsible means, and part of what being reelected requires. But the nature of welfare itself poses a dilemma for democratic responsibility. To justify decisions about welfare, representatives must consider the preferences of citizens. But those preferences at any particular time are not adequate ground for a justification of welfare policy. Orthodox theories of representation provide no way to cope with this problem; a satisfactory theory, must take a different approach. Instead of looking for justifications solely in the preferences of citizens at a particular time, we should look at the legislative process in which the justifications are made.

Dennis Thompson, “Representatives in the Welfare State,” *Democracy and the Welfare State* (Princeton, 1988), p. 131.

Consider drawing upon non-traditional sources when making an argument.

Humiliation is not necessarily the outcome of intent to humiliate. It can be the outcome of life conditions brought about by institutions or individuals. For example, a recession that leads to unemployment may well be the planned result of an anti-inflationary monetary policy, but it may just as well be—and in most cases is—an unintended outcome of economic behavior. A welfare society is supposed to ameliorate not only intentional humiliation but also degrading life conditions, such as unemployment, that are not generally the result of planning.

Not every sort of human distress is a cause of humiliation. The question is how we can judge when the life conditions of human distress are to be considered humiliating.

Poverty is the prototypical case for testing the problem of when to call certain states of affairs or life conditions humiliating - states of affairs that are the result of human action, but without the intention to humiliate anyone. One focused question, then, is whether poverty as such is humiliating. The question is not whether poor people feel humiliated, but whether they have a sound reason for feeling that way. Harsh poverty may dull the feeling of degradation, but that would not eliminate the justification for it. The way I have chosen to discuss this question is through a poem by Hayyim Nahman Bialik. A poem is not an argument, but it can be turned into one.

Avishai Margalit, *The Decent Society* (Harvard, 1996), pp. 226-227.