

# Introduction to Moral Reasoning

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## 1. *Some Ways Not to Answer Moral Questions*

*Moral Judgments and Personal Preferences:* Some people like classical music; others do not. Some people think bourbon is just great; others detest its taste. Some people will go to a lot of trouble to spend an afternoon in the hot sun at the beach; others can think of nothing worse. In all these cases disagreement in preference exists. Someone likes something; someone else does not. Are moral disagreements, disagreements over whether something is morally right or wrong, the same as disagreements in preference?

It does not appear so. For one thing, when a person (say, John) says he likes something, he is not denying what another person (Jane) says, if she says she does not like it. Suppose John says "I [John] like bourbon," and Jane says "I [Jane] do not like bourbon." Then clearly Jane does not deny what John says. To deny what John says, Jane would have to say "You [John] do not like bourbon," which is not what she says. So, in general, when two persons express conflicting personal preferences, the one does not deny what the other affirms. It is perfectly possible for two conflicting expressions of personal preference to be true at the same time.

When two people express conflicting judgments about the morality of something, however, the disagreement is importantly different. Suppose John says "Abortion is always wrong," while Jane says "Abortion is never wrong." Then Jane is denying what John affirms; she is *denying* that abortion is always wrong, so that, if what she said were true, what John said would have to be false. Some philosophers have denied this. They have maintained that moral judgments should be understood as expressions of personal preferences. Though this view deserves to be mentioned with respect, it is doubtful that it is correct. When people say that something is morally right or wrong, it is always appropriate to ask them to give reasons to support their judgment, reasons for accepting their judgment as correct. In the case of personal preferences, however, such requests are inappropriate. If John says he likes to go to the beach, it hardly seems apt to press him to give reasons to

support his judgment; indeed, it hardly seems that he has made a *judgment* at all. If he says abortion is always wrong, however, a judgment has been expressed, and it is highly relevant to press John for his reasons for thinking what he does. If he were to reply that he had no reasons, that he just did not like abortions, it would not be out of place to complain that he speaks in a misleading way. By saying that abortion is wrong, John leads his listeners to believe that he is making a judgment about abortion, not merely expressing some fact about himself. If all that he means is that he personally does not like abortions, that is what he should say, not that abortion is wrong.

This difference between conflicting expressions of personal preference and conflicting moral judgments points to one way not to answer moral questions. Given that moral judgments are not just expressions of personal preference, it follows that moral right and wrong cannot be determined by finding out about the personal preferences of some particular person—say, John. This is true even in the case of our own preferences. Our personal preferences are important certainly, but we do not answer moral questions by saying what we like or dislike.

*Moral Judgments and Feelings:* Closely connected with personal preferences are a person's feelings, and some philosophers have maintained that words like 'right' and 'wrong' are devices we use to express how we feel about something. On this view, when Jane says that abortion is never wrong, what she conveys is that she has certain positive feelings (or at least that she does not have any feelings of disapproval) toward abortion, whereas when John says abortion is always wrong, what he conveys is that he does have feelings of disapproval. This position encounters problems of the same kind as those raised in the previous section. It is always appropriate to ask that support be given for a moral judgment. It is not appropriate to ask for support in the case of mere expressions of feeling. True, if John is sincere, one can infer that he has strong negative feelings about abortion. But his saying that abortion is always wrong does not appear to be simply a way of venting his feelings. As in the case of a person's preferences, so also in the case of a person's feelings: neither by itself provides answers to moral questions.

*Why Thinking It Is So Does Not Make It So:* The same is true about what someone thinks. Quite aside from his feelings, John, if he is sincere, does think that abortion is always wrong. Nevertheless, if

his judgment (“Abortion is always wrong”) is a moral judgment about the wrongness of abortion, what he means cannot be “I [John] think that abortion is wrong.” If it were, then he would not be affirming something that Jane denies, when she says “Abortion is never wrong.” Each would merely be stating that each thinks something, and it is certainly possible for it *both* to be true that *John* thinks that abortion is always wrong *and*, at the same time, that *Jane* thinks that abortion is never wrong. So if John is denying what Jane affirms, then he cannot merely be stating that he thinks that abortion is always wrong. Thus, the fact that John thinks abortion is wrong is just as irrelevant to establishing its wrongness as the fact that he feels a certain way about it. And the same is true concerning the fact that we think what we think. Our thinking something right or wrong does not make it so.

*The Irrelevance of Statistics:* Someone might think that though what one person thinks or feels about moral issues does not settle matters, what all or most people think or feel does. A single individual is only one voice; what most or all people think or feel is a great deal more. There is strength in numbers. Thus, the correct method for answering questions about right and wrong is to find out what most or all people think or feel; opinion polls should be conducted, statistics compiled. That will reveal the truth.

This approach to moral questions is deficient. All that opinion polls can reveal is what all or most people think or feel about some moral question—for example, “Is capital punishment morally right or wrong?” What such polls cannot determine is whether what all or most people think about such an issue is true or that what all or most people feel is appropriate. There may be strength in numbers, but not truth, at least not necessarily. . . . *Merely* to establish that all (or most) people think that, say, capital punishment is morally justified is not to establish that it *is* morally justified. In times past, most (possibly even all) people thought the world is flat. And possibly most (or all) people felt pleased or relieved to think of the world as having this shape. But what they thought and felt did not make it true that the world is flat. The question of its shape had to be answered without relying on what most people think or feel. There is no reason to believe moral questions differ in this respect. Questions of right and wrong cannot be answered just by counting heads.

*The Appeal to a Moral Authority:* Suppose it is conceded that we cannot answer moral questions by finding out what someone (say,

John) thinks or feels; or by finding out what all or most people think or feel. After all, a single individual like John, or most or all people like him, might think or feel one way when he or they should think or feel differently. But suppose there is a being who never is mistaken when it comes to moral questions: if this being judges that something is morally right, it *is* morally right; if it is judged wrong, it *is* wrong. No mistakes are made. Let us call such a being a "moral authority." Might appealing to a moral authority be a satisfactory way to answer moral questions?

Most people who think there is a moral authority think that this being is not an ordinary person but a god. This causes problems immediately. Whether there is a god (or gods) is a very controversial question, and to rest questions of right and wrong on what a god says (or the gods say) is already to base morality on an intellectually unsettled foundation. The difficulties go deeper than this, however, since even if there is a god who is a moral authority, very serious questions must arise concerning whether people have understood (or can understand) what this authority says about right and wrong. The difficulties that exist when Jews and Christians consult the Bible ("God's revelation to man") can be taken as illustrative. Problems of interpretation abound. Some who think that drinking is wrong think they find evidence in the Bible that God thinks so too; others think they find evidence that He does not. Some who think that homosexuality is declared wrong by God cite what they think are supporting chapters and verses; others cite other chapters and verses that they think show God does not think homosexuality is wrong, or they cite the same passages and argue that they should be interpreted differently. The gravity of these and kindred problems of interpretation should not be underestimated. Even if there is a moral authority, and even if the god whom Jews and Christians worship should happen to be this authority, that would not make it a simple matter to find out what is right and wrong. The problem of finding out what God thinks on these matters would still remain. In view of the fundamental and long-standing disagreements concerning the correct interpretation of the Bible, this would be no easy matter.

Problems of interpretation aside, it is clear that the correct method for answering moral questions does not consist in discovering what a moral authority says. Even if there is a moral authority, those who are not moral authorities can have no reason for thinking that there is one unless the judgments of this supposed authority

can be checked for their truth or reasonableness, and it is not possible to check for this unless what is true or reasonable can be known independently of any reliance on what the supposed authority says. If, however, there must be some independent way of knowing what moral judgments are true or reasonable, the introduction of a moral authority will not succeed in providing a method for answering moral questions. That method will have to illuminate how what is morally right and wrong can be known independently of the supposed moral authority, not how this can be known by relying on such an authority.

## 2. *The Ideal Moral Judgment . . .*

What now needs to be described is an approach to moral questions that is not open to the objections raised against the methods considered so far. The approach described in what follows turns on how the following question is answered: "What requirements would someone have to meet to make an ideal moral judgment?" Considered ideally, that is, what are the conditions that anyone would have to satisfy to reach a moral judgment as free from fault and error as possible? Now, by its very nature, an *ideal* moral judgment is just that—an ideal. Perhaps no one ever has or ever will completely meet all the requirements set forth in the ideal. But that does not make it irrational to strive to come as close as possible to fulfilling it. If we can never quite get to the finish, we can still move some distance from the starting line.

There are at least six different ideas that must find a place in our description of the ideal moral judgment. A brief discussion of each follows.

*a. Conceptual Clarity:* . . . If someone tells us that euthanasia is always wrong, we cannot determine whether that statement is true before we understand what euthanasia is. Similar remarks apply to other controversies. In the case of abortion, for example, many think the question turns on whether the fetus is a person; and that will depend on what a person is—that is, on how the concept 'person' should be analyzed. Clarity by itself may not be enough, but thought cannot get far without it.

*b. Information:* We cannot answer moral questions in our closets. Moral questions come up in the real world, and a knowledge of the real-world setting in which they arise is essential if we are seriously

to seek rational answers to them. For example, in the debate over the morality of capital punishment, some people argue that convicted murderers ought to be executed because, if they are not, they may be (and often are) paroled; and if they are paroled, they are more likely to kill again than are other released prisoners. Is this true? Is this a fact? We have to come out of our closets to answer this (or to find the answer others have reached on the basis of their research); and answer it we must if we are to reach an informed judgment about the morality of capital punishment. . . . The importance of getting the facts, of being informed, is not restricted just to the case of capital punishment by any means. It applies all across the broad sweep of moral inquiry.

*c. Rationality:* Rationality is a difficult concept to analyze. Fundamentally, however, it involves the ability to recognize the connection between different ideas, to understand that if some statements are true, then some other statements must be true while others must be false. Now, it is in logic that rules are set forth that tell us when statements do follow from others, and it is because of this that a person who is rational often is said to be logical. When we speak of the need to be rational, then, we are saying that we need to observe the rules of logic. To reach an ideal moral judgment, therefore, we must not only strive to make our judgment against a background of information and conceptual clarity; we must also take care to explore how our beliefs are logically related to other things that we do or do not believe. . . . To fall short of the ideal moral judgment by committing oneself to a contradiction is to fall as far short as one possibly can.

*d. Impartiality:* Partiality involves favoring someone or something above others. For example, if a father is partial to one of his children, then he will be inclined to give the favored child more than he gives his other children. In some cases, perhaps, partiality is a fine thing; but a partiality that excludes even thinking about or taking notice of the needs, interests, and desires of others seems far from what is needed in an ideal moral judgment. The fact that someone has been harmed, for example, always seems to be a relevant consideration, whether this someone is favored by us or not. In striving to reach the correct answer to moral questions, therefore, we must strive to guard against extreme, unquestioned

partiality; otherwise we shall run the risk of having our judgment clouded by bigotry and prejudice.

*e. Coolness:* All of us know what it is like to do something in the heat of anger that we later regret. No doubt we have also had the experience of getting so excited that we do something that later on we wish we had not done. Emotions are powerful forces, and though life would be a dull wasteland without them, we need to appreciate that the more volatile among them can mislead us; strong emotion is not a reliable guide to doing (or judging) what is best. This brings us to the need to be "cool." 'Being cool' here means "not being in an emotionally excited state, being in an emotionally calm state of mind." The idea is that the hotter (the more emotionally charged) we are, the more likely we are to reach a mistaken moral conclusion, while the cooler (the calmer) we are, the greater the chances that we will avoid . . . making mistakes.

The position is borne out by common experience. People who are in a terribly excited state may not be able to retain their rationality. Because of their deep emotional involvement, they may not be able to attain impartiality; and because they are in an excited emotional state, they may not even care about learning what happened or why. Like the proverb about shooting first and asking questions later, a lack of coolness can easily lead people to judge first and ask about the facts afterwards. The need to be "cool," then, seems to merit a place on our list.

*f. Correct Moral Principles:* The concept of a moral principle has been analyzed in different ways. At least this much seems clear, however: For a principle to be a *moral* principle (as distinct from, say, a scientific or legal principle), it must declare how all rational, free beings ought to act. The explanation of why a moral principle can apply only to free beings (those having free will) is as follows. Beings who lack free will cannot control how they behave; the only way they *can* behave is as they *do* behave, which makes it pointless to say how they *ought* to behave. Beings who have free will, however, *can* control how they behave; it is up to them whether they choose to act in one way rather than another; and thus it is meaningful to say that they ought or ought not to act in certain ways.

The explanation of why moral principles are restricted to rational beings is similar. The whole point of a moral principle is to provide rational guidance to beings faced with choices among

various alternatives. It would therefore be senseless to think that moral principles apply to things (for example, sticks and stones) incapable of being guided by what is rational. Only rational beings can be guided by rational principles. Thus, it is only to rational beings that moral principles can apply.

Now, it is commonly thought that human beings have free will and are rational beings. At least this is commonly thought to be true of most humans. Small babies and severely mentally deficient humans, for example, are unable to make free choices based on reason. Thus, they cannot be guided by moral principles, and moral principles cannot apply to their conduct. Most humans, however, do have the capacity to reason. Whether they also have free will is far less certain. The existence of free will is one of the oldest and most controversial of philosophy's problems, one that is well beyond the scope of this anthology. For present purposes, it is enough to realize that moral principles can apply only to rational, free beings *and* that the contributors all assume that their readers are likely to be amongst those beings to whom these principles do apply.

How does the idea of a correct moral principle relate to the concept of an ideal moral judgment? In an ideal moral judgment, it is not enough that the judgment be based on complete information, complete impartiality, complete conceptual clarity, etc. It is also essential that the judgment be based on *the correct* or *the most reasonable* moral principle(s). Ideally, one wants not only to make the correct judgment, but to make it for the correct reasons. . . .

### 3. Normative Ethics

Philosophers engaged in normative ethics attempt to go beyond the questions concerning method that arise in meta-ethics; the goal they set themselves is nothing short of determining what are the correct moral principles—those principles, that is, by which all free, rational beings ought morally to be guided. Thus, there is an important connection between the goal of normative ethics and the concept of an ideal moral judgment. An ideal moral judgment, we have said, must be based on correct moral principles, and it is just the question 'What principles are the correct ones?' that is at the heart of normative ethics. Unless the normative ethical philosopher succeeds in stating what are the correct moral principles, there can be no hope of even approaching the ideal moral judgment.



What then are the correct moral principles? Not surprisingly, a variety of answers has been offered. Not all of them can be considered here, and no one can be considered in much detail. But enough can be said to make some important ideas intelligible.

*Consequentialist Theories:* One way to begin the search for the correct moral principle(s) is to think about cases where we all believe that something wrong has been done. However, it is important to understand that the class of persons referred to by the expression 'we all believe' is not necessarily as universal as it might at first appear. For suppose that Henry's belief or judgment is based on very sketchy information, or was formed in the heat of anger, or is a product of unquestioned prejudice. Then Henry's belief does not compute, so to speak; that is, because Henry's judgment falls so far short of the ideal moral judgment, we are justified in (that is, we have good reasons for) excluding it. Thus, the persons referred to by 'we all believe' are not just anybody and everybody; they are only those persons who most fully satisfy the first five conditions of the ideal moral judgment explained previously—those who are conceptually clear, informed, rational, impartial, and cool. It is the beliefs of these persons, not the beliefs of those who are prejudiced, say, that provide us with a place to begin the search for the final element in the ideal moral judgment—namely, the correct moral principle(s). So, by saying that a place to begin this search is with "what we all believe," we do not contradict what was said earlier about the irrelevance of statistics. What was said there *still* remains true: *Merely* to establish what all (or most) people think or believe about moral questions is not to establish what is right or wrong, let alone why it is.

So let us begin with a case where those who most fully approach the requirements of impartiality, conceptual clarity, etc. would all agree that something wrong has been done. For example, imagine that Beth has a favorite record. She enjoys listening to it and likes to share it with her friends. Sue likes the record too, and could afford to buy it, only then she could not afford to buy something else she wants but does not need. So, Sue steals the record. As a result, Beth experiences some unhappiness. When she thinks about the missing record, she is distraught and frustrated, and the enjoyment she would have had, if Sue had not stolen the record, is canceled. Beth, then, is worse off, both in terms of the unhappiness she experiences and in terms of lost enjoyment. Thinking along these lines has led some philosophers to theorize that what makes

stealing wrong is that it is the cause of bad results—for example, it causes such experiences as the frustration and disappointment Beth feels.

Next imagine this case. Suppose there is a certain country that forbids black people from being in public after six o'clock. Bill, who is black, could get a job and support his family if the law did not prevent his free movement. As it is, he is chronically unemployed, and he and his family suffer accordingly. Thus, like the case of stealing, here we again have something that is the cause of bad results, and some philosophers have theorized that it is this fact that makes the law in question unjust.

Many philosophers have not stopped with the cases of stealing and injustice. Roughly speaking, the one common and peculiar characteristic of every wrong action, they have theorized, is that it leads to bad results, whereas the one common and peculiar characteristic of every right action, again roughly speaking, is that it leads to good results. Philosophers who accept this type of view commonly are referred to as *consequentialists*, an appropriate name, given their strong emphasis on the results or consequences of actions. Theories of this type are also called *teleological theories*, from the Greek *telos*, meaning “end” or “purpose,” another fitting name, since, according to these thinkers, actions are not right or wrong in themselves; they are right or wrong, according to these theories, if they promote or frustrate the purpose of morality—namely, to bring about the greatest possible balance of good over evil.

Now, in normative ethics, when someone advances a principle that states what makes all right actions right and all wrong actions wrong, they do so in the course of advancing a *normative ethical theory*. Theoretically, there are at least three different types of teleological, normative ethical theories.

1. *Ethical egoism*: According to this theory, roughly speaking, whether any person (A) has done what is morally right or wrong depends solely on how good or bad the consequences of A's action are *for A*. How *others* are affected is irrelevant, unless how they are affected in turn alters the consequences for A.
2. *Ethical altruism*: According to this theory, roughly speaking, whether any person (B) has done what is morally right or wrong depends solely on how good or bad the

consequences of B's action are for *everyone except B*. How B is affected is irrelevant, unless how B is affected in turn alters the consequences for anyone else.

3. *Utilitarianism*: According to this theory, roughly speaking, whether any person (C) has done what is morally right or wrong depends solely on how good or bad the consequences of C's action are *for everyone affected*. Thus, how C is affected is relevant; but so is how *others* are affected. How *everyone* concerned is affected by the good or bad consequences is relevant.

These are not very exact statements of these three types of teleological, normative ethical theories, but enough has been said about two of them—namely, ethical egoism and ethical altruism—to enable us to understand why most philosophers find them unsatisfactory. Both seem to fall far short of the ideal of impartiality, ethical egoism because it seems to place arbitrary and exclusive importance on the good or welfare of the individual agent, and ethical altruism because it seems to place arbitrary and exclusive importance on the good or welfare of everyone else. Moreover, both theories arguably lead to consequences that clash with undoubted cases of wrong action. This is perhaps clearest in the case of ethical egoism. Provided only that, all things considered, stealing the record did not lead to less than the best results *for Sue*, what she did was not morally wrong, according to ethical egoism. But that is something we would most likely deny. Faced with the choice between accepting ethical egoism or giving up that what Sue did was wrong, most philosophers choose to reject the theory and retain the conviction.

It is utilitarianism, then, that seems to represent the strongest possible type of teleological theory. Certainly it is the one that has attracted the most adherents; not unexpectedly, therefore, it is the one that figures most prominently in the essays in this volume. It will be worth our while, therefore, to examine it at slightly greater length.

*Utilitarianism*: 'The Principle of Utility' is the name given to the fundamental principal advocated by those who are called utilitarians. This principle has been formulated in different ways. Here is a common formulation:

Everyone ought to act so as to bring about the greatest possible balance of intrinsic good over intrinsic evil for everyone concerned.

Already it must be emphasized that utilitarians do not agree on everything. In particular, they do not all agree on what is intrinsically good and evil. Some philosophers (called *ethical hedonists*) think that pleasure and pleasure alone is intrinsically good (or good in itself), whereas pain, or the absence of pleasure, and this alone, is intrinsically evil (or evil in itself). Other philosophers have different theories of intrinsic good and evil. These troubled waters can be bypassed, however, since the ideas of special importance for our purposes can be discussed independently of whether ethical hedonism, for example, is true.

*Act- and Rule-Utilitarianism:* One idea of special importance is the difference between act-utilitarianism and rule-utilitarianism. *Act-utilitarianism* is the view that the Principle of Utility should be applied to individual actions; *rule-utilitarianism* states that the Principle of Utility should be applied mainly to rules of action. The act-utilitarian says that whenever people have to decide what to do, they ought to perform that act which will bring about the greatest possible balance of intrinsic good over intrinsic evil. The rule-utilitarian says something different: People ought to do what is required by justified moral rules. These are rules that would lead to the best possible consequences, all considered, if everyone were to abide by them. If a justified rule unambiguously applies to a situation, and if no other justified moral rule applies, then the person in that situation ought to choose to do what the rule requires, even if, in that particular situation, performing this act will not lead to the best consequences. Thus, act-utilitarians and rule-utilitarians, despite the fact that both profess to be utilitarians, can reach opposing moral judgments. An act that is wrong according to the rule-utilitarian, because it is contrary to a justified moral rule, might not be wrong according to the act-utilitarian's position.

*Some Problems for Act-Utilitarianism:* Is act-utilitarianism correct? Many philosophers answer no. Among the reasons given against this theory is that act-utilitarianism appears to imply that some acts that are most certainly wrong might be right. Recall the example of Sue's stealing. According to act-utilitarianism, whether Sue's theft was morally right or not depends on this and this alone: Were the net consequences of her act at least as good as the consequences that

would have resulted if she had done anything else? Suppose they were. Then act-utilitarianism would imply that what she did was right. Yet her theft seems clearly wrong. Thus, we again seem to be faced with a choice between either (a) retaining the conviction that Sue's theft was wrong, or (b) accepting the theory of act-utilitarianism. We cannot choose to have both. In the face of such a choice, reason seems to be on the side of retaining the conviction and rejecting the theory.

Act-utilitarians actively defend their position against this line of criticism. The debate is among the liveliest and most important in normative ethics. The point that bears emphasis here is that *rule*-utilitarians do not believe that *their* version of utilitarianism can be refuted by the preceding argument. This is because they maintain that Sue's theft is wrong because it violates a justified moral rule—the rule against stealing. Thus, the rule-utilitarian holds that his position not only does not lead to a conclusion that clashes with the conviction that Sue's theft is wrong; this position actually illuminates *why* the theft is wrong—namely, because it violates a rule whose adoption by everyone can be defended by an appeal to the Principle of Utility.

*Some Problems for Rule-Utilitarianism:* One success does not guarantee that all goes well, and many philosophers think that rule-utilitarianism, too, is inadequate. The most important objection turns on considerations about justice. The point of the objection is that rule-utilitarianism apparently could justify rules that would be grossly unjust. To make this clearer suppose there were a rule that discriminated against persons because of the color of their skin. Imagine this rule (*R*): "No one with black skin will be permitted in public after six o'clock." If we think about *R*, its unfairness jumps out at us. It is unjust to discriminate against people simply on the basis of skin color. However, although it is clear that *R* would be unjust; might not *R* conceivably be justified by appealing to the Principle of Utility? Certainly it seems possible that everyone's acting according to *R* might bring about the greatest possible balance of intrinsic good over intrinsic evil. True, black people are not likely to benefit from everyone's acting according to *R*. Nevertheless, on balance, their loss might be more than outweighed by non-black' gains, especially if blacks are a small minority. Thus, if rule-utilitarianism could be used to justify flagrantly unjust rules, it is not a satisfactory theory.

Can the rule-utilitarian meet this challenge? Philosophers are not unanimous in their answer. As was the case with the debate over the correctness of act-utilitarianism, this debate is too extensive to be examined further here. . . .

*Nonconsequentialism:* ‘Nonconsequentialism’ is a name frequently given to normative ethical theories that are not forms of consequentialism. In other words, any theory that states that moral right and wrong are *not* determined solely by the relative balance of intrinsic good over intrinsic evil commonly is called a nonconsequentialist theory. Theories of this type are also called *deontological* theories, from the Greek *deon*, meaning given “duty.” Such theories might be either (a) extreme or (b) moderate. An extreme deontological theory holds that the intrinsic good and evil of consequences are totally irrelevant to determining what is morally right or wrong. A moderate nonconsequentialist theory holds that the intrinsic good and evil of consequences are relevant to determining what is morally right and wrong but that they are not the only things that are relevant and may not be of greatest importance in some cases. A great variety of nonconsequentialist theories, both extreme and moderate, have been advanced. Why have some philosophers been attracted to such theories?

*The Problem of Injustice:* A central argument advanced against all forms of consequentialism by many nonconsequentialists is that no consequentialist theory (no form of ethical egoism, ethical altruism, or utilitarianism) can account for basic convictions about justice and injustice—for example, that it is unjust to deny Bill his liberty just because he is black. The point these deontologists make is that to treat Bill unjustly not only is wrong; to treat him unjustly is to wrong or harm *him*. Fundamentally, according to these thinkers, it is because people are wronged or harmed when treated unjustly, quite apart from the value of the consequences this may have for everyone else involved, that all consequentialist theories ultimately prove to be deficient.

Suppose these deontologists are correct. Some deontological theory would then be called for. A number of such theories have been advanced. Some theorists, following the lead of the German philosopher Immanuel Kant (1724–1804), have argued that injustice is wrong because it fails to show proper respect for free, rational beings; in particular, it involves treating such beings as mere means to someone else’s end. Precisely what it means to treat someone without “proper respect” or as a “mere means” is not

transparent. . . . To understand this position requires understanding the idea of basic moral rights.

*Basic Moral Rights versus Correlative Moral Rights:* Basic moral rights are rights that *do not follow from* any more basic moral principle. In particular, these rights do not follow from the Principle of Utility. It is difficult to overemphasize this point. A utilitarian might be able to consistently maintain that people have moral rights in a certain sense; possibly he or she could allow that moral rights are *correlated* with duties—for example, correlated with Sue's duty not to steal Beth's record is Beth's moral right not to have Sue (or anyone else) steal from her. However, for a utilitarian, moral rights cannot be *basic*; at the very most they can be correlated with those duties that, given the Principle of Utility, we are supposed to have. Those who believe in basic moral rights are of another mind. For example, if the right to life is a basic moral right, then this *right*, *not* the Principle of Utility or any other moral principle, is the ground or basis of the duty not to take the life of another person. In a word, basic moral rights, if there are any, are themselves the grounds of moral duties, not *vice versa*.

Both those who believe in basic moral rights and those who believe that moral rights are correlated with moral duties can agree on certain points about moral rights. In particular, both can agree that the concept of a moral right differs from the concept of a legal right. An explanation of some principal differences follows.

#### 4. Legal Rights and Moral Rights

First, moral rights, if there are any, are *universal*, while legal rights need not be. Legal rights depend upon the law of this or that country and what is a matter of legal right in one country may not be so in another. For example, in the United States any citizen eighteen years old or older has the legal right to vote in federal elections; but not everyone in every nation has this same legal right. If, however, persons living in the United States have a moral right to, say, life, then *every* person in every nation has this same moral right, whether or not it is also recognized as a legal right.

Second, moral rights are *equal* rights. If all persons have a moral right to life, then all have this right equally; it is not a right that some (for example, males) can possess to a greater extent than others (for example, females). Neither, then, could this moral right be possessed to a greater extent by the inhabitants of one country (for example, one's own) than by the inhabitants of some other

country (for example, a country with which one's own country is waging war). . . .

Third, moral rights are *inalienable*, meaning they cannot be transferred to another—for example, they cannot be lent or sold. If Bill has a moral right to life, then it is his and it cannot become anyone else's. Bill may give his life for his country, sacrifice it in the name of science, or destroy it himself in a fit of rage or despair. But he cannot give, sacrifice, or destroy his right to life. Whether he can do anything that, so to speak, cancels his right (the more common terminology is 'forfeit his right') is an important and difficult question. . . .

### 5. *Legal Justice and Moral Justice*

Moral and legal rights are connected in important ways with moral and legal justice. Legal justice requires that one respect the legal rights of everyone, while moral justice demands that everyone's moral rights be honored. The two—legal justice and moral justice—do not necessarily coincide. Laws themselves may be morally unjust. For example, a country might have a law that unfairly discriminates against some of its inhabitants because of their sex; imagine that it denies that women have a legal right to life but guarantees this legal right to all males. Then legal justice is done in this country if this law is enforced. But it does not follow that moral justice is done. That depends not on whether there is a law in this country, but on whether the law recognizes and protects the moral rights of the country's inhabitants. If it does, then the law is both legally and morally just; if it does not, then, though the law may be legally just, it lacks moral justice. . . .

### 6. *What are Rights?*

Whether rights are moral or legal, basic or correlative, the question remains: What are rights? How is the concept of a right to be analyzed? Various answers have been given, ranging from the view that rights are an individual's entitlements to be treated in certain ways to the view that they are valid claims that an individual can make, or have made on his or her behalf, to have one's interests or welfare taken into account. What is common to these answers is that a right involves the idea of a *justified constraint upon how others may act*. If Beth has a right to *x*, then others are constrained not to interfere with her pursuit or possession of *x*, at least so long as her pursuit or possession of *x* does not come into conflict with the rights



of others. If it does, Beth may be exceeding her rights, and a serious moral question would arise. But aside from cases of exceeding one's rights and, as may sometimes be the case, of forfeiting them, the possession of a right by one individual places a justified limit on how other individuals may treat the person possessing the right. Whether rights are entitlements or valid claims, and whether they are basic or correlative, rights involve a justified constraint or limitation on how others may act. . . .

*One Role of the Principle of Utility:* All but the most extreme non-consequentialist can allow that an appeal to the Principle of Utility is always relevant even if not always decisive. Possibly utility has a role to play when the rights of innocent persons conflict. To illustrate this possibility, suppose a hijacker has attached to an innocent hostage a time bomb that, if it goes off, will kill ten other innocent persons; and suppose that the only possible way to prevent the bomb from going off is to kill the hostage. What ought to be done? If we kill the hostage, we kill an innocent person; but if we do not kill the hostage, ten innocent persons will be killed. The innocence of the persons involved may not be enough to give us moral direction. Possibly an appeal to the Principle of Utility would. The point is, even if there are *basic* moral rights, and even if the utilitarian cannot account for them, one could *both* believe in basic moral rights *and* allow that the Principle of Utility should play some role in our thinking about what is right and wrong—for example, in cases where the basic moral rights of innocent people conflict. . . .