HUMAN RIGHTS FOR DEBATING

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What are rights?

Human rights are something all people are inherently entitled to simply by the fact of being human and born into this world.

Based on the fundamental assumption that every individual is a moral and rational human being who deserves to live in dignity, human rights establish certain basic standards without which people cannot live a decent life. These standards are largely based on moral and ethical principles, depending on what society considers crucial for a decent life. Despite the fact that the modern conception of human rights is fairly new, the roots of the belief in the sanctity of human life can be traced far back in history. In fact, the underlying basis of the concept has its roots in nearly every religion and ethical tradition. Such examples include, but are not limited to the Golden Rule (or law of reciprocity), according to which a person must treat others as he or she would wish to be treated and the "Eye for an eye" principle (or *lex talionis*) which implies the need for justice. In fact, all societies have developed systems of justice in some form, in order to ensure the welfare and wellbeing of their members.

Many modern approaches to human rights suggest that they are principally **inalienable, indivisible** and **interdependent**.

Human rights are **inalienable**, meaning that they cannot be taken away or renounced, except as a result of a due process, which must be legally stipulated. For example, governments may restrict the freedom of movement of persons who have been convicted of crimes (in the context of imprisonment).

Human rights are **indivisible**, meaning that they form one integral whole which cannot be divided. They are all equally important, implying that a certain right cannot be prioritized over another. For example, economic rights cannot be emphasized at the expense of political rights.

Human rights are **highly interrelated** and **interdependent**. Considering that they constitute a complementary whole, human rights are very connected to each other. Each right can only be enjoyed when the other rights are being enjoyed too. For example, the right to health directly affects the right to life.

Kinds of human rights

Many scholars make a distinction between positive rights and negative rights. The holder of a negative right is entitled to non-interference, while the holder of a positive right is entitled to provision of some good or service. A right against assault is a classic example of a negative right, while a right to welfare assistance is a prototypical positive right. Not all rights fall neatly into these two categories; privileges and powers are neither negative nor positive rights.

Human rights can also be divided into five sub-categories – civil rights, political rights, economic rights, social rights and cultural rights. Human rights can be also classified as natural or legal rights.

Civil rights include the ensuring of people's physical and mental integrity, life, and safety. Civil rights are mainly focused on the standards of judiciary and penal systems. The right to life, the right to liberty and the right to equality are all civil rights.

Political rights enable people to participate in political processes within a society. Political rights include the right to vote, the right to get elected and the right to criticize and oppose the government.

The aim of the economic and social rights is to provide economic and social security to people. They are focused on ensuring quality of life for everyone, especially for those not participating in economic activities. It is essential for each person to be able to fulfil their basic needs (food, shelter, clothing, etc.). These rights include the right to work, the right to adequate wages and the right to education.

Cultural rights are focused on the cultural sphere of life. The aim of these rights is to assure enjoyment of culture and they include the right to science and culture. In a more philosophical context and according to the most prominent classification, human rights can be classified as natural rights or legal rights.

Natural rights are fundamental human rights which are inherent to human beings, based on universal, natural, moral principle. They come from the nature of man and the world itself and are independent of transitory human law. For example, the right to life and the right to liberty.

Legal rights are based on positive law that exists at a given time in a given space. These rights are given to citizens and guaranteed by governments, which also means that they can be modified, repealed, and restrained. For instance, the right to minimum wage and the right to an attorney are legal rights.

How are they protected and enforced?

States have a duty to respect and protect all human rights. All states in the world have both moral and formal obligations to protect human rights. In the modern world, human rights are often recognized and protected as legal rights, meaning that they constitute a set of norms which are incorporated into both national and international legal systems. Such norms often include specified procedures and mechanisms to ensure effective enforcement and respect of human rights. These measures also serve to ensure accountability of governments in cases of human rights violations, taking into consideration that it is the governments' duty and responsibility to protect human rights.

States have several formal obligations of action regarding each human right: to respect, protect and fulfil human rights. Respecting and protecting human rights means that states must not interfere directly with people realising their rights and must stop others from interfering with peoples' rights also. In order to fulfil human rights, governments must create appropriate legislation and effective institutions so that people can effectively realise their rights.

Additionally, states have several formal obligation of process: states must not discriminate when meeting their obligations, must ensure adequate progress at a rate that shows certain commitment and must provide effective remedy for human rights violation. Lastly, governments must provide people opportunities to participate in realising their rights.

It is important to take into consideration the fact that realising human rights often depends on several more factors other than the state itself. Such factors include culture, customs, resources, the strength of civil society and other external factors.

What are international human rights instruments?

International human rights instruments are agreements, conventions, covenants, declarations, treaties and other documents relevant to international human rights law and the protection of human rights in general.

International human rights instruments constitute a set of various written documents related to human rights on an international level. According to their legal character, they can be either legally binding or non-legally binding. Legally binding instruments are agreements between states that are

concluded under provisions of international law. Conventions, treaties and covenants are some examples of legally binding instruments. By becoming parties to such international treaties, states accept obligations and duties under international law – to respect, to protect and to fulfil human rights. Through the process of ratification states give their formal consent for a treaty and therefore make it officially valid and recognized, meaning that it is only after ratifying a treaty that states become bound by it. After the ratification of an instrument, states also undertake an obligation to create national legislation, measures and mechanisms that are compatible with their treaty obligations and duties and can ensure effective realisation of human rights. Additionally, in cases where legal proceedings on a national level fail to address human rights violations, mechanisms for individual complaints are available on regional and international level.

On the other hand, international instruments like declarations and recommendations are considered as non-legally binding, meaning that they do not create lawfully binding obligations for states, but are rather politically binding. In most cases, these are documents of intent and their main aim is to ensure steady and progressive development over time. Usually they tackle obligations regarding highly sensitive issues which states are still not ready to fully commit to. However, such instruments often contain a set of core principles and values that can further inspire a rich body of legally binding international instruments. Declarations and recommendations have a tendency to grow into legally binding documents over time.

International human rights instruments can be also classified as global or regional instruments. Global instruments are treaties and other documents to which any state can be a party. For example, such instruments are the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. On the other hand, regional instruments are restricted to states in a specific region of the world. Three crucial regional human rights instruments can be identified: the African Charter on Human and Peoples' Rights, the American Convention on Human Rights and the European Convention on Human Rights.

International law also includes some peremptory norms – *jus cogens*. These norms deal with certain fundamental principles of international law. They are considered compelling, meaning that no derogation from them is ever permitted. They are largely based on modern, universally accepted social and political attitudes. Examples include: prohibition on the use of force, genocide and generally crimes against humanity, prohibition of torture, slavery and similar.

Apart from the question of legality itself, debating often requires to take into consideration the criterion of legitimacy as well. While legality questions whether or not something is a violation of obligations imposed by law, legitimacy is a question of support for a certain action, depending on society's perception of right and wrong. For example, it can be argued that in certain situations humanitarian intervention is illegal, yet legitimate and justified. What makes political authority legitimate can also be questioned.

What are the core international human rights instruments (treaties)?

The Universal Declaration of Human Rights, together with the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights constitute the so called International Bill of Human Rights which is the pillar for protection of human rights within the United Nations. Almost 70 years after it was adopted by the United Nationals General Assembly in 1948, the Universal Declaration of Human Rights (UDHR) remains one of the most relevant instruments regarding human rights today. While human rights abuses and violations did not end after it was adopted, the UDHR has provided countless people an opportunity to seek justice through both national and international protection for their rights. Proclaiming that "all human beings are born free

and equal in dignity and rights", the declaration sets core moral principles as to what is right and what is wrong. It stipulates the principles of non-discrimination, equality, fairness and legality. It convenes a wide range of rights and freedoms to which everyone is entitled. Examples include the right to life, the right to trial, the right to privacy, the right to education, the right to public assembly, the right to democracy as well as workers' rights. The declaration also stipulates freedom of expression, freedom of thought, freedom to move and freedom from torture, inhumane and degrading treatment.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) entered into force in 1976 and recognizes the following rights: the right to work, the right to just and favourable conditions of work, the right to form and join trade unions and the right to strike, the right to social security, the right to protection and assistance for the family and the prohibition of child labour, the right to an adequate standard of living, the right to the highest attainable standard of physical and mental health, the right to education, the freedom of parents to choose schools other than those established by public authorities and the right to take part in cultural life and to benefit from scientific progress. It is the duty UN Committee on Economic, Social and Cultural Rights to monitor the implementation of the ICESCR.

The International Covenant on Civil and Political Rights (ICCPR) entered into force in 1976 and recognizes the following rights: the right to life, freedom from torture and cruel, inhuman or degrading punishment, freedom from slavery and forced labour, rights to liberty and security, the right to justice and a fair trial, freedom of movement, the right to privacy, the right to peaceful assembly, freedom of religion, thought and expression, freedom of association, the right to marriage and rights of children, rights to ethnic, religious and linguistic minorities to enjoy their own culture, equality and non-discrimination. The ICCPR is monitored by the UN Human Rights Committee.

Regional rights Conventions and Charters

The European Convention on Human Rights (ECHR) aims to protect human rights and fundamental freedoms in Europe and entered into force in 1953. It informs the European Court of Human Rights and enshrines basic protections of freedom from torture, slavery, the right to a fair trial, privacy, marry and start a family, the right to freedom of though and expression, assembly and association.

The African Charter on Human and People's Rights (ACHPR) was adopted by the African States members of the Organization of African Unity in 1986. In addition to enshrining basic rights and freedoms, it enshrines freedom of movement, political participation, the right to property, the right to work, health and education, the right to family protection by the state, the right to self-determination, the right to freely dispose of wealth and natural resources. The Charter also stipulates duties towards one's family, the society, the state and other legally recognized communities and the international community.

Such duties include: to respect and consider fellow human beings without discrimination, to preserve the harmonious development of the family, to serve the national community and preserve and strengthen social and national solidarity, not to compromise the security of the State, to preserve and strengthen the national independence and the territorial integrity of one's country and to contribute to its defence, to work to the best of one's abilities and competence and to pay taxes imposed by law, to preserve and strengthen positive African cultural values, to contribute to the promotion of African unity. Regarding safeguard measures, the Charter establishes an African Commission and subsequently a Court on Human and Peoples' Rights.

Are they universal?

Human rights prescribe universal standards in areas such as security, law enforcement, equality, political participation, and education. The peoples and countries of planet Earth are, however, enormously varied in their practices, traditions, religions, and levels of economic and political development. Putting these two propositions together may be enough to generate the worry that universal human rights do not sufficiently accommodate the diversity of Earth's peoples. A theoretical expression of this worry is "relativism," the idea that ethical, political, and legal standards for a particular country or region are mostly shaped by the traditions, beliefs, and conditions of that country or region. The anthropologist William G. Sumner, writing in 1906, asserted that "the mores can make anything right and prevent condemnation of anything" (Sumner 1906, 521).

Relativists sometimes accuse human rights advocates of ethnocentrism, arrogance, and cultural imperialism (Talbott 2005, 39-42). Ethnocentrism is the assumption, usually unconscious, that "one's own group is the center of everything" and that its beliefs, practices, and norms provide the standards by which other groups are "scaled and rated" (Sumner 1906, 12-13). This can lead to arrogance and intolerance in dealings with other countries, ethical systems, and religions. Finally, cultural imperialism occurs when the economically, technologically, and militarily strongest countries impose their beliefs, values, and institutions on the rest of the world. Relativists often combine these charges with a prescription, namely that tolerance of varied practices and traditions ought to be instilled and practiced through measures that include extended learning about other cultures.

The conflict between relativists and human rights advocates may be partially based on differences in their underlying philosophical beliefs. Relativists think of morality as socially constructed and transmitted. In contrast, philosophically-inclined human rights advocates are more likely to adhere to cognitivism and intuitionism.

During the drafting in 1947 of the Universal Declaration, the Executive Board of the American Anthropological Association warned of the danger that the Declaration would be "a statement of rights conceived only in terms of the values prevalent in Western Europe and America." Perhaps the main concern of the AAA Board in the period right after World War II was to condemn the intolerant colonialist attitudes of the day and to advocate cultural and political self-determination. But the Board also made the stronger assertion that "standards and values are relative to the culture from which they derive" and thus "what is held to be a human right in one society may be regarded as anti-social by another people".

This is not, of course, the stance of most anthropologists today. Currently the American Anthropological Association has a Committee on Human Rights whose objectives include promoting and protecting human rights and developing an anthropological perspective on human rights. While still emphasizing the importance of cultural differences, anthropologists now often support cultural survival and the protection of vulnerable cultures; non-discrimination, and the rights and land claims of indigenous peoples.

The idea that relativism and exposure to other cultures promote tolerance may be correct from a psychological perspective. People who are sensitive to differences in beliefs, practices, and traditions, and who are suspicious of the grounds for extending norms across borders, may be more inclined to be tolerant of other countries and peoples than those who believe in an objective universal morality. Still, philosophers have been generally critical of attempts to argue from relativism to a prescription of tolerance (Talbott 2005: 42-44). If the culture and religion of one country has long fostered intolerant attitudes and practices, and if its citizens and officials act

intolerantly towards people from other countries, they are simply following their own traditions and cultural norms. They are just doing what relativists think people mostly do. Accordingly, a relativist from a tolerant country will be hard-pressed to find a basis for criticizing the citizens and officials of the intolerant country. To do so the relativist will have to endorse or presuppose a transcultural principle of tolerance and to advocate cultural change (in the direction of greater tolerance) across national and cultural boundaries. This tolerance principle will speak against the traditions and practices of some countries. Human rights yield far stronger protections of tolerance and cultural survival than relativism can support. Because of this, relativists who are deeply committed to tolerance may find themselves accepting at least a modest commitment to human rights.

East Asia is the region of the world that participates least in the international human rights system—even though many East Asian countries do participate. In the 1990s Singapore's Senior Minister Lee Kuan Yew and others argued that international human rights as found in United Nations declarations and treaties were insensitive to distinctive "Asian values" such as prizing families and community (in contrast to strong individualism); putting social harmony over personal freedom; respect for political leaders and institutions; and emphasizing responsibility, hard work, and thriftiness as means of social progress. Proponents of the Asian values idea did not wish to abolish all human rights; they rather wanted to deemphasize some families of human rights, particularly the fundamental freedoms and rights of democratic participation (and in some cases the rights of women). They also wanted Western governments and NGOs to stop criticizing them for human rights violations in these areas.

At the 1993 World Conference on Human Rights in Vienna, countries including Singapore, Malaysia, China, and Iran advocated accommodations within human rights practice for cultural and economic differences. Western representatives tended to view the position of these countries as excuses for repression and authoritarianism. The Conference responded by approving the Vienna Declaration. It included in Article 5 the assertion that countries should not pick and choose among human rights: "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

The debate about relativism and human rights raises lots of interesting issues, but perhaps it has become obsolete. In recent decades widespread acceptance of human rights has occurred in most parts of the world. Three quarters of the world's countries have ratified the major human rights treaties, and many countries in Africa, the Americas, and Europe participate in regional human rights regimes that have international courts. Further, all of the world's countries now use similar political institutions (law, courts, legislatures, executives, militaries, bureaucracies, police, prisons, taxation, and public schools) and these institutions carry with them characteristic problems and abuses (Donnelly 2003: 46, 92; Nickel 2007, 173-4). Finally, globalization has diminished the differences among peoples. Today's world is not the one that early anthropologists and missionaries found. National and cultural boundaries are breached not just by international trade but also by millions of travelers and migrants, electronic communications, international law covering many areas, and the efforts of international governmental and non-governmental organizations. International influences and organizations are everywhere and countries borrow freely and regularly from each other's inventions and practices.

Worldwide polls on attitudes towards human rights are now available and they show broad support for human rights and international efforts to promote them. A December 2011 report by the Council on Foreign Relations surveyed recent international opinion polls on human rights that probe agreement and disagreement with propositions such as "People have the right to express any opinion," "People of all faiths can practice their religion freely," "Women should have the same rights as men," "People of different races [should be] treated equally," and governments "should be responsible for ensuring that [their] citizens can meet their basic need for food." Big majorities of those polled in countries such as Argentina, Ukraine, Azerbaijan, Egypt, Iran, Kenya, Nigeria, China, India, and Indonesia gave affirmative answers. Further, large majorities (on average 70%) in all the countries polled supported UN efforts to promote the human rights set out in the Universal Declaration. Empirical research can now replace or supplement theoretical speculations about how much disagreement on human rights exists worldwide.

How do we analyse rights?

Hohfeldian analysis

Hohfeldian analysis is the most widely accepted way of analysing rights. The four basic components/elements of rights are known as "the Hohfeldian incidents". This is like the DNA of rights, with the Hohfeldian incidents only bonding in specific pairs

Stage 1: first order rights

The four elements of first order rights are **claims, duties, liberties and no claims**

To have a first order right is to be in a relationship with **another actor** about the **action**

If I have a **claim**, you have a corresponding **duty**. This duty can be a legal or a moral duty e.g. For the right to life, I have a claim on you not to kill me and you have a corresponding duty not to kill me

If I am at **liberty** to perform an action, you have **no claim** stopping me (you can't impose duties against me performing that action). E.g. If I am at liberty to travel, you have no claim on me to stay where you want me to stay

Stage 2: second order rights

Second order rights are rights that allow you to change first order rights, e.g. if you were the president of the USA you would have the power to change or nullify rights or rules that other people had to follow

The four elements of second order rights are **power, liability, immunity and no ability**

The leader has the **power** to change duties and those that follow these laws are at **liability** to have their duties changed

However, if there is someone in a higher position than the leader of interest, they have **immunity** while the leader has **no ability** to impose the duties on them

Simplified explanation of Hohfeldian analysis: https://www.youtube.com/watch?v=tIslPhzI3uc

Hohfeldian analysis is a useful way of thinking about rights, because any right has a corresponding reaction on the part of another person. When examining whether a right should exist, we should not only consider the legitimacy of the right for the person who it is directed towards, but also the corresponding requirements it places on other people.

When analysing the justification for the legitimacy of a right, there are two leading philosophical approaches to explaining which fundamental rights of conduct there are, and why these rights should be respected. These two approaches are broadly identifiable as deontological and consequentialist.

The Deontological Justification of Rights

The deontological approach holds that human beings have attributes that make it fitting to ascribe certain rights to them, and make respect for these rights appropriate. These attributes are typically free will, rationality, autonomy, the ability to regulate one's own chosen conception of the good life. The Kantian imperative suggests that humans should not be treated as a means to an end but rather as an end in and of themselves. Kant held that the basis for an ethical law is the point at which it an action is determined to be the duty of rational actors (i.e. rational actors would reach the conclusion that it is their duty to protect or enable such an action). He also believed that the morality of a law ought to take into account the rights of others, as equally valuable actor to act autonomously. The final test that Kant proposes is that of universality; that one should only act in accordance with something you believe would be right regardless of our desires or background.

Hobbes theorized that when men are completely free to order their actions and dispose of their possessions and persons as they see fit it results in a pure survival mentality. The lives of men in this state are "solitary, poor, nasty, brutish and short". Therefore, in order to better ensure their own safety and wellbeing, people give up true freedom on the understanding that others will also give up some of their freedoms. Hobbes suggests that individuals then cede their sovereignty to a facilitating entity (in this case a state) that mediates when individuals' interests act in competition with each other. Locke thought that with no government to defend liberties, people would have no security within their rights. The state would act as a "neutral judge" to protect lives, liberty and property for all who lived within its bounds.

Nozick believed that only a minimal state "limited to the narrow functions of protection against force, fraud and facilitating enforcement of contracts" could be justified without violating peoples' rights. Free exchange amongst consenting adults under his conception of society is just even if large inequalities subsequently emerge. This formed the basis for modern libertarianism. Under Nozick's libertarianism people would be valid in creating enslavement contracts providing the contract was created consensually and in a non-coercive state.

Mills suggested that the state should only restrict individuals if their action caused a direct harm to others that they cannot meaningfully consent to. He believed that individuals were rational agents who could consent to some harms being imposed on them based on them being best placed to understand what will fulfil their subjective conception of the good life. For a choice to be legitimate, he argued that choices need to be

1) Informed: individuals need to know what they are consenting to in order to make choices that best protect them
2) Voluntarily made: choices need to be freely made and not directly coerced in order for the individual to meaningfully consent
3) Ability or lucidity: if an actor is deemed unable to fully understand the decision their decision can be restricted, e.g. Children and mentally impaired people not being able to vote

Hegel attempted to incorporate Kantian ethics into theories of state. He suggested that coming into contact with others necessarily restricts some freedoms in one way or another. The state should therefore create laws to facilitate the modern state. A person could be free if he is a participant in all

of these different aspects of life of the state. This integrated the idea of personal liberty and true freedom with the state. He suggested that if you opt into a system of laws and rules you are still free. The only time you give up freedom is when that system of governance is imposed.

Rousseau however believed that individuals had to "forced to be free", by allowing political rights to be determined based on unlimited popular sovereignty. He created the Social Contract Theory, which stated "Each of us puts his person and all his power in common under the supreme direction of the general will; and in a body we receive each member as an indivisible part of the whole." However, this theory relies on the state always creating laws that are in the interests of the people, suggesting that even when they disagree with a law, they simply don't know their own will. This contrasts strongly with Kant's imperative that if you as a rational agent in society deem something to be wrong it is your moral duty to oppose an immoral law. Moreover, the Social Contract Theory gives absolute sovereignty over that society to the state regardless of whether individuals opt in to the state as a construct. Rousseau also believed that it was the states duty to create laws to mould character to the general will.

Rawls proposed that when judging whether a law is moral or not, one should be divorced from their position in society. He argues that positionality allows for the powerful to make decisions about the lives of the vulnerable. If you are not going to be affected by a law, the decision making process about what a moral law is is extremely different to when your immunity is not assured. Individuals should be treated as free, equal and moral for a just society to exist. Rawls believed that for a just society to exist two principles needed to be upheld

1) First principle of Justice: "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others."
2) Second principle of Justice: social and economic inequalities are to be arranged such that
    a. They are to be of the greatest benefit to the least-advantaged members of society, consistent with the just savings principle. (the difference principle)
    b. Offices and positions must be open to everyone under conditions of fair equality of opportunity

Therefore, under the deontological justification of rights one must examine the relationship between the state and individuals. Your conception of what a state's role is ought to be clear and the degree to which it is legitimate for the state to impose restrictions on individual liberty must be outlined.

The Consequentialist Justification of Rights

The consequentialist approach hold that respect for particular rights is a means for bringing about some optimal distribution of interests. There are different conceptions of what the optimal distribution of interests would be. This conversation formed the basis of modern utilitarianism

Bentham proposed that all pleasure arising from an action be added up. All suffering should then be deducted from the total pleasure and if the net reaction was pleasure rather than suffering that action is moral. Mill suggests that it is not simply the quantity of pleasure but also the quality of pleasure. He distinguishes between higher and lower pleasures, favouring actions that stimulation one's intellect rather than simply causing a pleasurable sensation. He argues that general happiness is desirable because each person, as far as he believes it to be attainable, desires his own happiness. Happiness as a collective is therefore not just a means to achieve a functioning society but an end for that society and the metric for evaluating morality.

Ideal utilitarianism argues that pleasure isn't the sole measure of what is good; beauty, morality and knowledge are all valuable ideals that we ought to take into account when determining the effect of an action. Negative utilitarianism suggests that there is no symmetry between suffering and happiness. Suffering creates a direct moral imperative to help, while there is no similar imperative to increase happiness. Therefore, negative utilitarianism defines utility purely in terms of minimizing suffering.

Life debates

Euthenasia/right to die

Up until the 1970s, restricting information about the severity of one's illness in order to motivate the patient to "fight the illness" was the norm. In the 1960s approximately 10% of patients were told about their fatal prognosis, as they were considered passive subjects to treatment. In 1969 Kübler-Ross published "On Death and Dying" which identified that 5 stages when facing death; denial, anger, bargaining, depression and acceptance). In 1976 California allowed terminal patients to decline or discontinue treatment. States began to recognise "living will" legislation allowing advance choices about withholding and withdrawing treatment. Around 1986 discontinuing the respiratory support for a permanently comatose patient became more common. While most countries now allow "Do Not Resuscitate (DNR)" orders, an action to directly end someone's life remains controversial.

Autonomy: Just as a person has the right to determine the course of his/her life, a person also has the right to determine the course of his/her own dying. If a person seeks assistance in suicide from a physician freely and rationally, the physician ought to be permitted to provide it. Respect for autonomy requires allowing rational self-governance and should only be limited to the degree to which it causes direct harm to others. Studies showed that this was the primary reason for people wanting a physician-assisted suicide; with pain a factor in less than half the cases and the sole factor in a tiny fraction of cases.

Is true autonomy possible for someone who is dying? Not only are most choice socially formed but the effects of terminal illness, be they physical or psychological are coercive in nature. Moreover the nature of death is completely unknown, without adequate information one cannot meaningfully consent to assisted suicide

Prevention of pain and suffering: At the time of euthanasia discussions beginning in earnest, 50% of patients in tertiary care hospitals reported having suffered moderate to severe pain in the last 3 days of life. While opponents argue that this pain can be managed, in the most extreme cases this requires complete sedation and then nutrition and hydration is cut off. This removes a patient's ability to engage with the outside world and intentionally ends his/her life so the moral distinction between this and euthanasia is unclear. However, pain management and hospice care has come a long way and many opponents of euthanasia believe that pain control and symptom control removes most of the calls for assisted suicide.

The intrinsic immorality of killing: Killing is understood to be morally wrong in all cultures and religious systems and almost all social systems condemn the action. Catholic scholars suggest that because "everything loves itself" and seeks to remain in being, suicide is by nature irrational, unnatural and rejects God's gift of life.

Proponents of euthanasia point out that there are some circumstances in which killing is morally permissible; war and self-defence being prominent examples. Thus killing for a good reason may be

acceptable. Moreover, one could consider euthanasia self-defence; if someone was causing suffering, indignity and was going to kill you, most people would deem it morally acceptable to kill your killer. One can therefore choose to defend themselves against something (the illness) rather than someone. The response seeks to distinguish between killing of the "innocent" and killing those who are guilty of immoral actions. But this leads to a counter-intuitive result; innocent patients who want to die cannot while guilty or immoral patients could die.

Pope Pius XII issued a famous statement in which he employed the Principle of Double Effect to argue that, while death must never be intentionally caused, the physician may use drugs for pain control even though foreseeing – but not intending – an earlier death due to the medication. The principle of double effect requires four conditions to be met

1) The action itself must not be intrinsically wrong
2) The agent must intend only the good consequence not the bad one
3) The bad consequence must not be the means of achieving the good consequence
4) There is no way producing the good effect without producing the bad effect
5) The good consequence must be proportional to or outweigh the bad consequence

Critics of the double effect have pointed to two problems. The first is that it is superfluous; if the goodness of the intended effect outweighs the badness of the side effect you ought to perform the action, even if you do not intend to do so. Their second claim is that if it is not superfluous, it is pernicious, since it allows the actor to do bad things as long as his intentions are pure.

It became more acceptable to unplug respirators, dialysis discontinued, chemotherapy avoided, antibiotics and pressors not used. Most controversially artificial nutrition and hydration could be discontinued or not started at all. Such practices were referred to as "letting die", not "killing". This moral distinguish was called into question through the following thought experiment: Smith and Jones both stand to inherit a sizeable fortune from their respective 6 year old cousins. Smith sneakers into the bathroom while his cousin is taking a bath and drowns him. Jones plans to drown his cousin, but as he sneaks into the bathroom the child hits his head and slips under the water. Jones does nothing to save him. Smith has killed his cousin while Jones has simply let his cousin die, but both are clearly wrong. Therefore using the distinction between killing and letting die to discriminate between ethically acceptable and unacceptable is inadequate. Especially since the illness can cause suffering, the deliberate termination of life could be ethically better than withdrawing treatment.

The role of doctors: Doctors are bound by the Hippocratic Oath to save lives not take them. Doctors in modern hospitals face immense time pressures, financial incentive against expensive treatments, little ongoing relationship with their patients and a number of conditions that compromise a physician's judgement when assisting a patient in dying. Allowing this action may increase the callous treatment of patients and undermine the trust between healer and patient. Doctors would be less willing to perform risky procedures if their patients could simply opt out and not reflect badly on their professional records. This can introduce perverse risk averse incentives for doctors. Moreover, governments and society are unlikely to invest in palliative care if the option of physician-assisted suicide is normalized.

The potential for abuse: The risks for those in vulnerable groups would be especially high. Patients could be pressured by family members, callous physicians or cost- conscious insurers into feeling like a burden, as if they ought to make the decision to die. The Netherlands recognized euthanasia early and published a number of papers about it. The guidelines for "due care" included

1) That the patient choice be voluntary and enduring
2) That the patient be undergoing or about to undergo intolerable suffering
3) That the patient have full information about his/her condition and prognosis
4) That all alternatives for relieving the suffering that are acceptable to the patient have been tried
5) That a second, independent physician be consulted
6) That the physician report the action to the appropriate authorities

The Dutch government issued a broad study on end-of-life decisions in 1990. It found that 3% of deaths were due to deliberately hastened death and 0.3% due to physician-assisted suicide. Of the life terminating treatments, 950 cases had no explicit request for the treatment. These were mainly people who could no longer make decisions or requests. The rate of physician assisted suicides found that the rates of requests had not changed substantially over the decade.

A retired anaesthesiologist Jack Kevorkian provided assistance to well over 100 people and did not require the patient to be terminally ill. He injected lethal drugs into the patient rather than simply providing means to the patient. He was tried repeatedly but it was only when he performed euthanasia on nationwide television in 1998 that he was convicted of second degree murder. Timothy Quill provided his leukaemia patient a prescription for a lethal drug, which she took some months later. He was tried, however a New York State grand jury simply refused to indict him.

Abortion

The two main areas of controversy within abortion laws are (1) how to understand the moral status of the foetus and (2) whether a right to abortion can be based on the mother's right to autonomy. Much of the debate has happened within a Christian framework, with opponents arguing that killing an innocent human being is ethically wrong and where the focus of the debate has become (1) when does the foetus become a human being and (2) under what conditions can a foetus be killed when it has become a human being. The principle of double effect has also been used within the abortion debate to justify killing a foetus as a side effect of some other medical intervention.

The moral status of the foetus

In order to understand the moral status of a foetus we must understand characterize how personhood is defined. Locke defines personhood as "an intelligent being, with reason and reflection… [that has] consciousness". These capacities are species, gender, race and organic life form neutral. Locke suggests that the capacity for self-consciousness coupled with minimum intelligence is necessary for moral agency but also a minimum condition for any deliberate behaviour. More importantly, these capacities allow humans to value their own existence and that of others. The wrong done to an individual in this case is the wrong of depriving that individual of something that he/she values. Failing to sustain the life of a non-person therefore does that individual no harm as it cannot deprive the individual of something that he/she/it values.

Criteria for personhood: any self-conscious, minimally intelligent being is a person. However for personhood status to hold we also need detectable evidence of personhood. Personhood applied to human individuals implies that the life cycle of a given individual passes through a number of stages of different moral significance. The individual exists before it acquires personhood. Locke's criteria for personhood also makes infanticide permissible since there is little difference between a late foetus and a new born. Moreover this criteria may also put severely mentally handicapped adults at risk of being defined as non-persons should their mental retardation rule out self-consciousness and rudimentary intelligence. Those in a permanent vegetative state will have no personhood by this definition.

Some view life as beginning at conception, but human sperm and eggs are both alive prior to conception and the egg undergoes a process of maturation. Conception can result in a cancerous multiplication of cells that will never become a person; it may result in more than one life. When cloning embryos, one can use a pre-implantation embryo in the early stages of development that could become any part of the resulting individual and split it into any number of parts. These clumps of cells could be used to form a new viable embryo. Each clump is the clone of each of the others and comes into being through division of an early cell mass rather than through conception. Trickier still, these clumps could be recombined into one embryo. What constitutes a person in this scenario? Without the destruction of a single human cell, one human can be split into four and recombined into one. Those who believe that the soul enters the body at conception have an interesting problem here; is the soul split into four and are we destroying three souls when we recombine the clumps of cells.

It is possible to simply assert that membership of the human species confers moral importance upon its own kind. However this logic holds true in other forms of discrimination and therefore seems a poor basis to determine the ethical treatment of a being. Potentiality is one of the ways to distinguish between human embryos and other species; however this does not make them morally equivalent (acorns are not oak trees, nor eggs chickens). It does not follow that because something has the potential to become something different we ought to treat it always as if it had achieved its potential; we are all potentially dead but we would object to being treated now as if we were dead. The second problem with potentiality is that is that for consistency it ought to encompass everything that has the potential to become a human. An unfertilised egg and the sperm also has the potential to become human. Cloning by nuclear transfer, which involves deleting the nucleus of an unfertilized egg, inserting the nucleus taken from any adult cell and electrically stimulating the resulting newly created egg to develop can in theory produce a new human. This means that any cell in the human body has the potential to become a new twin of that individual. Therefore, conception is no longer the necessary precursor of human beings.

*Marquis makes the argument that what is wrong with killing adult human beings is that we deprive them of their future or “a life like ours”. The harm done is not just that we go against their desire to keep living (which could vary in strength and importance, otherwise thereby varying the wrongness of killing) but that we deprive them of all possibilities and the future formation of new desires and preferences. This argument makes a moral claim independent of whether the individual has the preference to go on living and of what species you are; if you have a future sufficiently like the one we have the argument stands. Therefore, the foetus already has a future like ours, no more logically uncertain or contingent than the life of any other and it is on that basis that it is deemed immoral to kill it. The two problems with this argument are the arbitrariness of the stipulation of a “future like mine” (aliens could have a very different future but our treatment of them would still be morally important) and that this argument can collapse into the same potentiality argument regarding an unfertilized egg and sperm also being capable of a “future like mine”

Some scientists argue that viability ought to be used as the distinction for personhood. Prior to the foetus being able to survive outside the mother’s womb it is entirely dependent on the mother. Therefore its existence is entirely contingent on the mother providing for it such that it can exist. It therefore ought to be treated as part of the mother, as opposed to a morally distinct entity.

A final discussion is whether life is an objective good versus neutral non-existence, should the foetus not yet have sentience. The life of a child that is not wanted by their mother is likely to have many challenges, whether they remain with the mother or not. It has not been established that bringing a

child into an environment that on balance of probabilities is likely to contain more pain than pleasure is a moral act.

The rights of the mother to bodily autonomy

The discussion regarding the rights of the mother is affected by our moral understanding of the status of the foetus; if it is morally understood to be a person, then the analysis must occur as if there are two rights in competition with one another. If the foetus is deemed not a person, the discussion about the mothers rights changes.

The first right to examine is that of self-defence. Judith Thompson argued that the mother was entitled to view her foetus as a wrongful trespasser, which in virtue either of her right to self-ownership of her right to self-defence, could legitimately be ejected from her body. She asks us to imagine that you wake up attached to a famous violinist. It has been found that you alone have the right blood type and to save his life you must remain connected to him. Would it be fair to expect someone to take on this burden? If you required to donate a kidney to keep the violinist alive, would that be acceptable. While the direct pain and risk may be short lived there would be long term impacts on your health and quality of life. However, most people indicate that the right to self-defence requires a proportionality of force; if the foetus is unlikely to kill the mother then it is unclear that one could kill a trespasser. This raises an interesting question regarding the scope of the right to an abortion; does the right extend to killing a foetus or simply removing it from one's body. What if those two things aren't one in the same? The second is bodily autonomy; that individuals ought to have control over their own bodies.

Although fathers often claim the right to control the reproductive destiny of their sexual partners, this claim could be sustained only by demonstrating that an abortion was immoral. This claim would likely then hold true for any third party. If, on the other hand, it is a claim made by the father to procure an abortion against the will of the mother this would involve an assault on the mother's bodily integrity equivalent to rape. This is not to suggest that fathers have no interest, but what weight should that interest hold? Even in the strongest case, where a man and woman have agreed to have a child together and the mother reneges on the agreement and decides to have an abortion. Does the father have a quasi-contractual claim on the mother to have the baby? It is unlikely for a number of reasons; the first being that giving birth is almost always more risky and subjecting her to those involuntary risks is fundamentally immoral. The second is that we would have to deny basic rights such as physical integrity and autonomy to the mother.

Special ethical considerations in late abortions

It is generally accepted that the foetus becomes sentient at some point during the pregnancy and that one of the abilities that develop is the ability to feel pain. It then becomes morally problematic to inflict pain on a sentient creature. Painless methods of abortion do entail increased risks for the pregnant woman, so we would have to balance these risks against foetal pain. The second sentience based argument is about psychological continuity between successive stages of the same person. I am personally identical to a late stage foetus because its mental experiences have contributed to forming my present psychology and there is no discernible break between those early experiences and my present mental life. It must follow therefore, that I was already a person at the time and that I possess the same rights as a person. The third sentience based argument is that if I have died when my brain has died, it makes sense that I start to live when my brain has started to live as a brain. However brain death and brain life seem important because the brain is required to support some capacities that are deemed morally relevant. But this is not always directly connected to brain death

or life; legs are required by humans for running but humans have legs before they can run and might cease to be able to run while still having legs.

A human foetus becomes viable outside the womb of the pregnant woman some time before full term. It has been argued that abortion becomes morally impermissible after viability, based on the following argument: The argument for abortion leads to the conclusion that a woman has a right to have her pregnancy terminated. After viability the pregnancy can be terminated without killing the foetus either directly or be expelling it from the uterus in a non-viable state. The woman has no independent rights to have the foetus killed. Therefore after viability, there is no right to have the pregnancy terminated in a way that results in killing the foetus.

The third category of arguments relies on the idea that our moral obligations towards other individuals depends not only on their attributes but also on our relationship to them. Personhood, personal identity and moral status are not based on some property or capacity of my body or mental life but on the personal narrative that I co-construct with others. The foetus gradually becomes part of our social networks and obtains the meaning of a specific personal narrative.

The distinction between establishing the morality of an act and creating legislation regarding the act

Proponents of abortion argue that even if abortion were established as ethically wrong, the side effects of not allowing abortions are a reason to legalise the practice. These side effects are two fold; firstly that a large number of back street abortions with threat to the life or welfare of the pregnant woman occur and secondly that not having access to abortions creates a negative effect on the status of women and their opportunities to participate fully in society.

Bodily autonomy

Bodily autonomy legislation dictates everything from what substances we can consume, to what body modifications we can make and what medical decisions we can take.

Proponents for bodily autonomy point to Kant. Kantian imperatives suggest that each person should be treated as an active moral agent capable of formulating their own decisions. The state can lay no moral claim to autonomy of your body, provided that your decisions regarding it do not directly harm anyone else. You are best placed to understand your own circumstances and have complete authority over your subjective experience of the world and responses to it. Your own body is a vital and inextricable part of your personhood and identity and therefore it is vital that human beings be allowed to make decisions about it.

In short, every agent has an authority over herself that is grounded, not in her political or social role, nor in any law or custom, but in the simple fact that she alone can initiate her actions. In order to form an intention to do one thing rather than another, an agent must regard her own judgment about how to act as authoritative—even if it is only the judgment that she should follow the command or advice of someone else. What distinguishes autonomy-undermining influences on a person’s decision, intention, or will from those motivating forces that merely play a role in the self-governing process? This is the question that all accounts of autonomy try to answer.

Opponents believe that individuals cede some of their autonomy to the state in order to participate in a functional society. They view it as the duty of the state to create laws that guide the morality of the society based on the idea that they have the best information about what is best for the collective society. Restrictions can therefore be placed on personal freedoms

Torture

Pro torture argumentation - Sam Harris: In Defense of Torture

Imagine that a known terrorist has planted a bomb in the heart of a nearby city. He now sits in your custody. Rather than conceal his guilt, he gloats about the forthcoming explosion and the magnitude of human suffering it will cause. Given this state of affairs—in particular, given that there is still time to prevent an imminent atrocity—it seems that subjecting this unpleasant fellow to torture may be justifiable. For those who make it their business to debate the ethics of torture this is known as the "ticking-bomb" case.

While the most realistic version of the ticking bomb case may not persuade everyone that torture is ethically acceptable, adding further embellishments seems to awaken the Grand Inquisitor in most of us. If a conventional explosion doesn't move you, consider a nuclear bomb hidden in midtown Manhattan. If bombs seem too impersonal an evil, picture your seven-year-old daughter being slowly asphyxiated in a warehouse just five minutes away, while the man in your custody holds the keys to her release. If your daughter won't tip the scales, then add the daughters of every couple for a thousand miles—millions of little girls have, by some perverse negligence on the part of our government, come under the control of an evil genius who now sits before you in shackles. Clearly, the consequences of one person's uncooperativeness can be made so grave, and his malevolence and culpability so transparent, as to stir even a self-hating moral relativist from his dogmatic slumbers.

I am one of the few people I know of who has argued in print that torture may be an ethical necessity in our war on terror. In the aftermath of Abu Ghraib, this is not a comfortable position to have publicly adopted. There is no question that Abu Ghraib was a travesty, and there is no question that it has done our country lasting harm. Indeed, the Abu Ghraib scandal may be one of the costliest foreign policy blunders to occur in the last century, given the degree to which it simultaneously inflamed the Muslim world and eroded the sympathies of our democratic allies. While we hold the moral high ground in our war on terror, we appear to hold it less and less. Our casual abuse of ordinary prisoners is largely responsible for this. Documented abuses at Abu Ghraib, Guantanamo Bay, and elsewhere have now inspired legislation prohibiting "cruel, inhuman or degrading" treatment of military prisoners. And yet, these developments do not shed much light on the ethics of torturing people like Osama bin Laden when we get them in custody.

I will now present an argument for the use of torture in rare circumstances. While many people have objected, on emotional grounds, to my defense of torture, no one has pointed out a flaw in my argument. I hope my case for torture is wrong, as I would be much happier standing side by side with all the good people who oppose torture categorically. I invite any reader who discovers a problem with my argument to point it out to me. I would be sincerely grateful to have my mind changed on this subject.

Most readers will undoubtedly feel at this point that torture is evil and that we are wise not to practice it. Even if we can't quite muster a retort to the ticking bomb case, most of us take refuge in the fact that the paradigmatic case will almost never arise. It seems, however, that this position is impossible to square with our willingness to wage modern war in the first place.

In modern warfare, "collateral damage"—the maiming and killing innocent noncombatants—is unavoidable. And it will remain unavoidable for the foreseeable future. Collateral damage would be a problem even if our bombs were far "smarter" than they are now. It would also be a problem even if we resolved to fight only defensive wars. There is no escaping the fact that whenever we drop

bombs, we drop them with the knowledge that some number of children will be blinded, disemboweled, paralyzed, orphaned, and killed by them.

The only way to rule out collateral damage would be to refuse to fight wars under any circumstances. As a foreign policy, this would leave us with something like the absolute pacifism of Gandhi. While pacifism in this form can constitute a direct confrontation with injustice (and requires considerable bravery), it is only applicable to a limited range of human conflicts. Where it is not applicable, it is seems flagrantly immoral. We would do well to reflect on Gandhi's remedy for the Holocaust: he believed that the Jews should have committed mass suicide, because this "would have aroused the world and the people of Germany to Hitler's violence." We might wonder what a world full of pacifists would have done once it had grown "aroused"—commit suicide as well? There seems no question that if all the good people in the world adopted Gandhi's ethics, the thugs would inherit the earth.

So we can now ask, if we are willing to act in a way that guarantees the misery and death of some considerable number of innocent children, why spare the rod with known terrorists? I find it genuinely bizarre that while the torture of Osama bin Laden himself could be expected to provoke convulsions of conscience among our leaders, the perfectly foreseeable (and therefore accepted) slaughter of children does not. What is the difference between pursuing a course of action where we run the risk of inadvertently subjecting some innocent men to torture, and pursuing one in which we will inadvertently kill far greater numbers of innocent men, women, and children? Rather, it seems obvious that the misapplication of torture should be far less troubling to us than collateral damage: there are, after all, no infants interned at Guantanamo Bay. Torture need not even impose a significant risk of death or permanent injury on its victims; while the collaterally damaged are, almost by definition, crippled or killed. The ethical divide that seems to be opening up here suggests that those who are willing to drop bombs might want to abduct the nearest and dearest of suspected terrorists—their wives, mothers, and daughters—and torture them as well, assuming anything profitable to our side might come of it. Admittedly, this would be a ghastly result to have reached by logical argument, and we will want to find some way of escaping it. But there seems no question that accidentally torturing an innocent man is better than accidentally blowing him and his children to bits.

In this context, we should note that many variables influence our feelings about an act of physical violence. The philosopher Jonathan Glover points out that "in modern war, what is most shocking is a poor guide to what is most harmful." To learn that one's grandfather flew a bombing mission over Dresden in the Second World War is one thing; to hear that he killed five little girls and their mother with a shovel is another. We can be sure that he would have killed many more women and girls by dropping bombs from pristine heights, and they are likely to have died equally horrible deaths, but his culpability would not appear the same. There is much to be said about the disparity here, but the relevance to the ethics of torture should be obvious. If you think that the equivalence between torture and collateral damage does not hold, because torture is up close and personal while stray bombs aren't, you stand convicted of a failure of imagination on at least two counts: first, a moment's reflection on the horrors that must have been visited upon innocent Afghanis and Iraqis by our bombs will reveal that they are on par with those of any dungeon. If our intuition about the wrongness of torture is born of an aversion to how people generally behave while being tortured, we should note that this particular infelicity could be circumvented pharmacologically, because paralytic drugs make it unnecessary for screaming ever to be heard or writhing seen. We could easily devise methods of torture that would render a torturer as blind to the plight of his victims as a

bomber pilot is at thirty thousand feet. Consequently, our natural aversion to the sights and sounds of the dungeon provide no foothold for those who would argue against the use of torture.

To demonstrate just how abstract the torments of the tortured can be made to seem, we need only imagine an ideal "torture pill"—a drug that would deliver both the instruments of torture and the instrument of their concealment. The action of the pill would be to produce transitory paralysis and transitory misery of a kind that no human being would willingly submit to a second time. Imagine how we torturers would feel if, after giving this pill to captive terrorists, each lay down for what appeared to be an hour's nap only to arise and immediately confess everything he knows about the workings of his organization. Might we not be tempted to call it a "truth pill" in the end? No, there is no ethical difference to be found in how the suffering of the tortured or the collaterally damaged appears.

Opponents of torture will be quick to argue that confessions elicited by torture are notoriously unreliable. Given the foregoing, however, this objection seems to lack its usual force. Make these confessions as unreliable as you like—the chance that our interests will be advanced in any instance of torture need only equal the chance of such occasioned by the dropping of a single bomb. What was the chance that the dropping of bomb number 117 on Kandahar would effect the demise of Al Qaeda? It had to be pretty slim. Enter Khalid Sheikh Mohammed: our most valuable capture in our war on terror. Here is a character who actually seems to have stepped out of a philosopher's thought experiment. U.S. officials now believe that his was the hand that decapitated the Wall Street Journal reporter Daniel Pearl. Whether or not this is true, his membership in Al Qaeda more or less rules out his "innocence" in any important sense, and his rank in the organization suggests that his knowledge of planned atrocities must be extensive. The bomb has been ticking ever since September 11th, 2001. Given the damage we were willing to cause to the bodies and minds of innocent children in Afghanistan and Iraq, our disavowal of torture in the case of Khalid Sheikh Mohammed seems perverse. If there is even one chance in a million that he will tell us something under torture that will lead to the further dismantling of Al Qaeda, it seems that we should use every means at our disposal to get him talking. (In fact, The New York Times has reported that Khalid Sheikh Mohammed was tortured in a procedure known as "water-boarding," despite our official disavowal of this practice.)

Which way should the balance swing? Assuming that we want to maintain a coherent ethical position on these matters, this appears to be a circumstance of forced choice: if we are willing to drop bombs, or even risk that rifle rounds might go astray, we should be willing to torture a certain class of criminal suspects and military prisoners; if we are unwilling to torture, we should be unwilling to wage modern war.

Opposing torture

https://www.aljazeera.com/indepth/opinion/2013/12/history-torture-201312177521103436.html

The categorical opposition for torture is that it treats victims as a means to an end and not an end in and of themselves. Victims of torture are treated as 'things' to be manipulated through pain and dehumanisation to obtain a torturers desired aims. To torture an individual is to treat them without any human value, simply as something to break. This directly violates people's rights and their human dignity. It is fundamentally unjust for a state to sanction a policy that does this, especially when there are alternatives. The justification for the use of torture is typically about the severity of the harms that could be prevented with its use. In using torture, however, we become the very type of evil that we are trying to prevent. A body that does not respect humanity; that uses innocents as cannon fodder to achieve its own aims and a body that ultimately answers only to itself. If we were

to use a veil of ignorance and remove ourselves from the safety of our own position in that society, is that a society that we would want to live in? A society where your name or the colour of your skin justifies your abduction and torture?

The consequentialist opposition for torture is significant. Firstly, torture is an ineffective interrogation tool because the victim will ultimately say anything to stop the pain, regardless of truth. Due to this, the interrogator will never know when the victim is actually telling the truth and will never know when to stop. If a suspect volunteers information under torture, it is impossible to prosecute them. Common law typically excludes involuntary statements or confessions as such information is inherently unreliable. This means that torture comes at the opportunity cost of subsequently trying the individual and following due process to achieve justice.

Torture is almost always outside of normal state functions and practices and is therefore also outside the normal framework of establishing guilt or innocence. This means that typically an abnormally large proportion of torture victims are either innocent or of mistaken identity. Khalid el-Masri, an innocent German citizen was kidnapped and tortured for an extended period of time after being mistaken for Al-Qaida chief Khalid al-Masri. The Red Cross in Iraq estimated that 80% of detainees at Abu Ghraib were “the wrong people”. It has been estimated that two dozen of the 600 detainees at Guantanamo has any potential intelligence of value even it if could be successfully obtained from them.

Torture damages the moral authority and integrity if the institution that carries it out; if an institution is not concerned about what actions are justified or not they degrade the rule of law and fairness as central tenants of their justice system. If you are willing to torture someone for a good reason it just makes it that much easier to torture them for a bad reason. Studies show that the vast majority of countries that have allowed torture to occur have opened themselves up to rampant abuse. In Chile and Argentina in the 1970s and 1980s thousands of people “disappeared” and were tortured or killed or both.

Moreover in the context of attempting to quell insurgent groups, torture is likely to validate the rhetoric that the regime does not view insurgents as people. That their treatment of insurgents warrants and justifies response that does not follow the Geneva Convention. Terrorist attacks on non-combatants seems much more plausible when your opponents are also not following the rule of law, are also not concerned with innocence or guilt. e.g. “The interrogations, torture and socialization of prison turned most of the men rounded up by Mubarak into hardened militants…[who] would become the foot soldiers of terrorism”

Studies have shown the people adjust their perception regarding the effectiveness of torture based on whether they believe it to be morally acceptable or not. Therefore it is important to address the morality of torture categorically rather than simply addressing the pragmatic efficacy of torture.

Freedom of speech

The term speech has come to stand for all forms of symbolic expression. Burning a national flag in protest or wearing a Nazi uniform to display support for that ideology is now regarded as speech. Scholars have argued for a two tier approach to speech. The upper tier consists of expression that is both intended and received as a public contribution to public deliberation about some issue while the lower tier applies to forms of expression that aren’t part of the process of public deliberation such as advertising or pornography that involves children or violence against women and its regulation would be subject to less rigorous standards.

The distinction between speech and conduct has also been prominent in efforts to balance expressive liberty of the individual and the authority of government. In the past it was argued that workers who walked on picket lines or civil rights protestors who marched in the streets were engaging in conduct and not speech. It is notoriously difficult to separate expression from conduct and this makes the protection of absolute free speech extremely difficult as the corresponding protection for conduct does not exist.

Marcuse claims that class divisions and corporate domination under capitalism make the marketplace of ideas a tool through which the powerful dominate expression and perpetuate their economic and social power. He argues that the existing political and economic structures "rig the rules of the game" and places at a disadvantage those who stand against an established system. Herman and Chomsky have argues that "money and power are able to filter the news fit to print, marginalize dissent, and allow government and dominant private interests to get their message across to the public"

There are several factors to take into consideration regarding the freedom of speech debate. The first is the degree of harm that can be caused. Proponents of free speech suggest that it does not cause a direct harm to individuals in the same way other forms of behaviour does, however opponents have questioned this. Speech can cause intense and long lasting distress; "Denying the cost of speech is simply insulting those who pay it". The second consideration is who has the moral authority to limit speech. A government has strong, self-serving motives to limit expression of those with unpopular views and attitudes. Governments may exaggerate the harms caused by critics and dissenters to further its own interests and maintain control over that society. Other individuals within a society have no moral authority over your own life and the way in which you engage with the world around you; pure numbers ought not to be the metric by which we judge what speech is valuable.

Proponents of free speech suggest that the special value of free expression is that it creates a "free marketplace of ideas" to facilitate the discovery and understanding of truth, especially new truths that run against the prevailing wisdom of the day. Some argue that not all have equal ability to "trade" in this marketplace of ideas, as money, power and social prominence give some voices more of a platform than others. Others argue that expressive liberty has historically proven crucial for emancipatory movements and that a system of free expression is vital for exposing and eliminating the oppression that remains.

Perhaps the most common argument for free speech emphasizes its connection to individual autonomy. The right of free expression is derived conceptually from the "moral sovereignty" of the individual. That sovereignty requires society to respect conscientiously expressed views of its citizens. Freedom of speech is valuable because it treats its citizens as responsible moral agents who have the capacity to make up their own minds about what is good or bad, true or false. However, any activity can be an exercise in autonomy so what affords speech special protections? Rawls argues that persons have two fundamental moral powers that constitute them as free and equal; the capacity for a sense of justice and the capacity to formulate, pursue and revise a conception of good. For Rawls, protections for these liberties are "essential social conditions for the adequate development of the two powers of moral personality over a complete life". Raz emphasizes the importance of free expression for individuals with "unconventional lifestyles", such as the LGBT community or minorities. Expressive liberty helps "promote public recognition and acceptance of modes of life that lie outside the mainstream". Another argument for free expression emphasizes its connection to democracy. It holds that free speech is indispensable for the kind of collective deliberation and decision making that is central to democratic self-government.

During the 1980s in America, a vigorous debate began over the legitimacy of regulating speech that degrades or demeans persons on the basis of features such as race, gender and sexual orientation. Hundreds of colleges enacted speech codes that sought to restrict speech. The arguments for restriction of speech within this context highlight the continued existence of subordination, the importance of symbolic expression in creating and perpetuating subordination and the ease with which society dismisses the harms suffered by marginalized groups. The case for regulation is based on the principle of equal citizenship. However, courts in the US have struck down every campus speech code that has been subject to legal challenge in favour of free speech.

Privacy

The definitions of privacy are as follows (1) freedom from government or other outside interference with your personal life (2) seclusion, solitude and bodily integrity = physical privacy (3) confidentiality, anonymity, data protection and secrecy of facts about persons = informational privacy (4) limits on the use of a person's name, likeness, identity = proprietorial privacy. The importance of privacy is partly a matter of psychological health and comfort. When outlining the value of privacy the most common claim is that privacy promotes individuality, independent moral judgement and the formation of self. Reiman defines privacy as "a social ritual by means of which an individual's moral title to his own existence is conferred". The second claim is that privacy promotes relationship creation and relationship enhancement. The final claim is that there is instrumental value to privacy corresponding to its many functions promoting the diverse interests of individuals. groups and the state.