
ESSAYS:

Hard Choices



THINKING ABOUT ETHICAL QUESTIONS

Making decisions about right and wrong is often very difficult. First, one must identify what *can* be done. Usually, more than one choice is available. If one choice is obviously superior to the other alternatives, then the decision is made with relative ease and confidence. But many times two or more choices seem defensible and, worse yet, both may seem good solutions to our problems. A genuine dilemma arises when one can identify and understand logically acceptable sets of reasons that seem to justify opposite courses of action.

A respected philosopher, Gerald Dworkin, has written about that problem.* He points out that there is no "theory of morality" that corresponds to theories in the physical and life sciences. For example, the theory of evolution in biology (a) explains many observable facts, (b) predicts the outcomes of experiments,

*Dworkin, Gerald. "Analyzing Ethical Problems." *Hard Choices*, A Magazine on the Ethics of Sickness and Health. Boston, Massachusetts: Office of Radio and Television Learning.

and (c) allows scientists to generate new hypotheses that can be investigated by using the methods of science. We can accept or reject hypotheses based on the experimental results. Moral questions cannot be approached in that way. We can't conduct an experiment to show that one idea is more legitimate than another.

But the lack of a testable theory of ethics does not mean that we can't answer moral questions, or that one point of view is necessarily just as good as another. Dworkin explains that there are three broad categories of moral considerations: goals, rights, and duties. Applying those categories to the analysis of ethical problems does not guarantee easy answers. But Dworkin's definitions and examples do give us a way to think through difficult ethical questions. His approach does so by helping us to identify what counts as dear-headed reasoning and what does not.

Goals, rights, and duties may be in conflict in many situations. We become confused when we fail to distinguish one from another. If we look at the arguments that

people give to justify one course of action over another, we often find all three. Usually, however, one of *them*—a goal, a right, or a duty—will be offered as the most important or most compelling reason. Even specialists in the field of ethics disagree about which is the most important in any given situation. So, we should not be surprised when we find ourselves torn between competing positions when we must make a difficult decision.

First, let's examine what we mean by goals, rights, and duties. Then we can go on to look at ways in which these ideas can be applied to the analysis of ethical problems.

Goals. One can judge the morality of an act by looking at what it intends to accomplish. We can ask ourselves about the objectives or outcomes. We can focus on consequences. In that pattern of thought, we might judge a "good" outcome as morally correct regardless of how the goal was achieved. That may be termed the any-means-to-an-end idea.

Consider some examples. Suppose we could agree that it is

morally desirable for a father to care for his children, and that a father should take any and all necessary steps to assure that his children survive. We might then conclude that stealing food from a neighbor to feed his starving children would be a morally justified choice. We might be tempted to qualify that judgment with statements like "if there were no other way," but in offering such exceptions we would call on other moral ideas such as the duty to be honest.

Another example may help further define moral arguments that rely on goals. A physician may view his or her primary mission as the preservation of life. Life, by that view, is to be sustained as long as possible by any means possible. In this goal-oriented view, then, a physician might refuse to disconnect a respirator on a comatose patient whose vital signs are maintained only by the machine. The physician might take such action against the wishes of the patient's family or even against the previously expressed wishes of the patient. In the physician's view, going against the rights of the patient would be justified by the *goal* of preservation of life.

Rights. Moral arguments that involve the notion of rights are familiar in many areas besides genetics, health, or medicine. One is said to have a *right* if one is entitled to a certain kind of treatment, no matter what the consequences. The founders of our country spoke of the inalienable rights of life, liberty, and the pursuit of happiness. They claimed that one could expect those things regardless of the situation or the outcomes—just by virtue of being an individual human being. Thus,

we have derived as part of our political heritage the belief that each person has a right of free speech, a right to vote, or a right to own property.

It is not hard to think of situations in genetics and medicine where one might use arguments about rights to support a particular course of action. For example, consider the matter of informed consent. Informed consent—the *full* disclosure of all relevant information so a patient can accept or refuse some treatment—rests on the belief that a person has a right to know all there is to know and to make up his or her own mind freely. In that view, no treatment can be given unless the person understands the procedure and chooses to undergo it.

This right to know and to choose is widely acknowledged among physicians, and informed consent is practiced routinely. Imagine, however, a physician who feels that some treatment will save a patient's life. But the physician knows also that this patient will refuse if all the possible consequences of the treatment are spelled out. How much information should the doctor share? Would the physician be justified in violating the patient's *rights* because the *goal* is to save the patient's life.

You can readily see how goals and rights can come into conflict. What situations can you imagine in which the rights of different individuals are in conflict? How are rights gained or lost? Can rights be limited by authority or by mutual agreement?

Duties. The duty or obligation to act in a certain way is often cited in ethical arguments. We typically think we have a duty to tell the truth, to keep a promise,

or to help a friend. Usually, duties are justified by suggesting that the act will achieve some worthy goal, or that the act is required because of someone's right. Thus, we can derive duties from goals or rights that may be in conflict with either goals or rights or even other duties.

A defending lawyer's relationship with the accused lawbreaker involves duties that are derived from goals and rights. It is the *right* of the accused to have legal representation, regardless of innocence or guilt. It is the attorney's *duty* to represent the accused, also without regard to guilt. Further, it is the lawyer's *duty* to seek the goal of acquittal, without consideration of the consequences for either the defendant or for society.

The logic of duties can be very complicated. Suppose a dying man asks a physician not to take any extraordinary steps to prolong his life. Does the doctor have a *duty* to comply with the man's wishes because of the patient's *right* to die? Or, does the physician have a *duty* to ignore the man's wishes because of the *goal* of the preservation of life?

Obviously, ethical dilemmas usually involve all three elements: goals, rights, and duties. It is seldom possible, however, to combine all three into a single, satisfying solution. Why, then, are they so important? Those notions help us *understand* situations that involve difficult choices. Goals, rights, and duties won't make our choices for us. But identifying the competing goals, rights, and duties that seem to be operating in a particular situation will help us see more clearly the choices that are available. It may even sharpen the focus enough to allow us to predict benefits and losses with

greater precision. Also, goals, rights, and duties are the language of justification, of defending the reasonableness of one's choices.

We can analyze case studies (see "Case Studies in Genetics," page 49) using goals, rights, and duties as tools to work through a practical problem. Consider the following case:

Leonard Steinman is a twenty-three-year-old college student of Jewish descent. In a large university-sponsored screening program, he is identified as a carrier of Tay-Sachs disease. During counseling, he reveals that he is engaged to marry a Jewish woman in three months. He tells the counselor that he has a twenty-year-old sister and a sixteen-year-old brother. He refuses to reveal his carrier status to his fiancée, his parents, or his brother or sister. He also forbids the counselor to tell them.

What should the counselor do? The counselor has a number of alternatives; she can attempt to persuade Leonard, refer Leonard to another counselor, or wait for Leonard to change his mind. But, for the sake of argument, let's consider the most extreme and opposite choices: to tell or not to tell. The counselor can justify going

against Leonard's wishes on several grounds—such as the *rights* of the others to know about their own health status, the *goal* of health promotion for all these individuals, and, thus, the counselor's *duty* to pursue that goal. On the other extreme is the counselor's *duty* to maintain confidentiality and respect Leonard's wishes. We can see that *duty* as derived from Leonard's *right* to privacy or his *right* to determine how he will interact with other family members. In keeping silent, the counselor would see the *goal* of respect for persons, in this case Leonard, as of a higher value than the *goal* of promoting health in the possible future offspring that Leonard or other members of his family might have.

To expand this analysis further, consider the ethical arguments if Leonard's fiancée called and asked the counselor about the results of Leonard's screening. Should the counselor divulge the results to her? Suppose the situation were even more complicated. What if the fiancée indicated that she herself is a carrier? What should the counselor do then? Why?

The identification of goals, rights, and duties doesn't solve the problem, but, it does make the choices clearer. And, it can break one big decision down into sev-

eral smaller ones. Sometimes, we can resolve smaller decisions one at a time and make the situation more manageable. For example, in the case of Leonard Steinman, we can identify at least three rights that may be in conflict. Leonard has rights. His fiancée has rights. And the child they may have someday will have rights, too. One can imagine landmark court cases in which decisions might go against or in favor of any one of those three. Depending on the number and nature of such cases, society might come to accept that one of these three has rights that predominate over those of the other two. Once the question of rights has some history of debate and decision, we might see a trend emerge that would make the decision to tell or not to tell a bit easier in the future.

Nevertheless, we are not likely to see some theory of morality arise that will settle these questions once and for all, at least not in the near future. Students of ethics are still some way from a single unifying theory that will serve philosophers as the theory of relativity serves astrophysicists. As Dworkin noted: "In many ways it is easier to agree on the nature of distant galaxies than it is to agree about the proper way to treat one's neighbors." —