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Outline of a Decision Procedure for Ethics

Author(s): John Rawls

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# OUTLINE OF A DECISION PROCEDURE FOR ETHICS

1.1 The question with which we shall be concerned can be stated as follows: Does there exist a reasonable decision procedure which is sufficiently strong, at least in some cases, to determine the manner in which competing interests should be adjudicated, and, in instances of conflict, one interest given preference over another; and, further, can the existence of this procedure, as well as its reasonableness, be established by rational methods of inquiry? In order to answer both parts of this question in the affirmative, it is necessary to describe a reasonable procedure and then to evidence that it satisfies certain criteria. This I attempt to do beginning at 2.1 below.

1.2 It should be noted that we are concerned here only with the existence of a reasonable method, and not with the problem of how to make it psychologically effective in the settling of disputes. How much allegiance the method is able to gain is irrelevant for our present purposes.

1.3 The original question has been framed the way it is because the objectivity or the subjectivity of moral knowledge turns, not on the question whether ideal value entities exist or whether moral judgments are caused by emotions or whether there is a variety of moral codes the world over, but simply on the question: does there exist a reasonable method for validating and invalidating given or proposed moral rules and those decisions made on the basis of them? For to say of scientific knowledge that it is objective is to say that the propositions expressed therein may be evidenced to be true by a reasonable and reliable method, that is, by the rules and procedures of what we may call "inductive logic"; and, similarly, to establish the objectivity of moral rules, and the decisions based upon them, we must exhibit the decision procedure, which can be shown to be both reasonable and reliable, at least in some cases, for deciding between moral rules and lines of conduct consequent to them.

2.1 For the present, we may think of ethics as being more analogous to the study of inductive logic than to any other established inquiry. Just as in inductive logic we are concerned with discovering reasonable criteria which, when we are given a proposition, or theory, together with the empirical evidence for it, will enable us to decide the extent to which we ought to consider it to be true so in ethics we are attempting to find reasonable principles which, when we are given a proposed line of conduct and the situation in which it is to be carried out and the relevant interests which it effects, will enable us to determine whether or not we ought to carry it out and hold it to be just and right.

2.2 There is no way of knowing ahead of time how to find and formulate these reasonable principles. Indeed, we cannot even be certain that they exist, and it is well known that there are no mechanical methods of discovery. In what follows, however, a method will be described, and it remains for the reader to judge for himself to what extent it is, or can be, successful.

2.3 First it is necessary to define a class of competent moral judges as follows: All those persons having to a certain requisite degree each of the following characteristics, which can, if desired, be made more determinate:

(i) A competent moral judge is expected to have a certain requisite degree of intelligence, which may be thought of as that ability which intelligence tests are designed to measure. The degree of this ability required should not be set too high, on the assumption that what we call "moral insight" is the possession of the normally intelligent man as well as of the more brilliant. Therefore I am inclined to say that a competent moral judge need not be more than normally intelligent.

(ii) A competent judge is required to know those things concerning the world about him and those consequences of frequently performed actions, which it is reasonable to expect the average intelligent man to know. Further, a competent judge is expected to know, in all cases whereupon he is called to express his opinion, the peculiar facts of those cases. It should be noted that the kind of knowledge here referred to is to be distinguished from sympathetic knowledge discussed below.

(iii) A competent judge is required to be a reasonable man as this characteristic is evidenced by his satisfying the following tests: First,

a reasonable man shows a willingness, if not a desire, to use the criteria of inductive logic in order to determine what is proper for him to believe. Second, a reasonable man, whenever he is confronted with a moral question, shows a disposition to find reasons for and against the possible lines of conduct which are open to him. Third, a reasonable man exhibits a desire to consider questions with an open mind, and consequently, while he may already have an opinion on some issue, he is always willing to reconsider it in the light of further evidence and reasons which may be presented to him in discussion. Fourth, a reasonable man knows, or tries to know, his own emotional, intellectual, and moral predilections and makes a conscientious effort to take them into account in weighing the merits of any question. He is not unaware of the influences of prejudice and bias even in his most sincere efforts to annul them; nor is he fatalistic about their effect so that he succumbs to them as being those factors which he thinks must sooner or later determine his decision.

(iv) Finally, a competent judge is required to have a sympathetic knowledge of those human interests which, by conflicting in particular cases, give rise to the need to make a moral decision. The presence of this characteristic is evidenced by the following: First, by the person's direct knowledge of those interests gained by experiencing, in his own life, the goods they represent. The more interests which a person can appreciate in terms of his own direct experience, the greater the extent to which he satisfies this first test. Yet it is obvious that no man can know all interests directly, and therefore the second test is that, should a person not be directly acquainted with an interest, his competency as a judge is seen, in part, by his capacity to give that interest an appraisal by means of an imaginative experience of it. This test also requires of a competent judge that he must not consider his own *de facto* preferences as the necessarily valid measure of the actual worth of those interests which come before him, but that he be both able and anxious to determine, by imaginative appreciation, what those interests mean to persons who share them, and to consider them accordingly. Third, a competent judge is required to have the capacity and the desire to lay before himself in imagination all the interests in conflict, together with the relevant facts of the case, and to bestow upon the appraisal of each the same care which he would give to it if that interest were his own. He is required to determine what he would think to be

just and unjust if each of the interests were as thoroughly his own as they are in fact those of other persons, and to render his judgment on the case as he feels his sense of justice requires after he has carefully framed in his mind the issues which are to be decided.

2.4 Before considering the next step in the development of the method here adopted, it is necessary to make some comments on the previous remarks. First, the tests for defining and determining the class of competent moral judges are vague; that is, given a group of persons, there would be, in all probability, instances in which we could not decide whether a person is a competent moral judge or not. Yet we do recognize in everyday life the pattern of characteristics discussed above; we do think that certain individuals exhibit them to a comparatively pre-eminent degree, and these individuals we call "reasonable" or "impartial"; it is men of their character whom we want to decide any case in which our interests are at stake. Thus, while the foregoing tests are admittedly not precise, they do describe and select a recognized type of person; and those persons who do satisfy them beyond any reasonable doubt, will be called "competent moral judges."

Second, it is important to note that a competent judge has not been defined by what he says in particular cases, nor by what principles he expresses or adopts. Competence is determined solely by the possession of certain characteristics, some of which may be said to be capacities and achievements (intelligence and knowledge), while others may be said to be virtues (thus, the intellectual virtues of reasonableness). It will become clear in later sections why we cannot define a competent judge, at least at the beginning of our inquiry, as one who accepts certain principles. The reason is that we wish to say of some principles for adjudicating interests that one ground for accepting them as reasonable principles is that competent judges seem to apply them intuitively to decide moral issues. Obviously if a competent judge were defined as one who applies those principles, this reasoning would be circular. Thus a competent judge must not be defined in terms of what he says or by what principles he uses.

Third, one should note the kind of characteristics which have been used to define a competent moral judge: namely, those characteristics which, in the light of experience, show themselves as necessary conditions for the reasonable expectation that a given person may come to know something. Thus, we think of intelligence as being such a con-

## A PROCEDURE FOR ETHICS

dition in all types of inquiry; and similarly with knowledge, since the more a man knows, the greater the likelihood of his success in further inquiry. Again, not only is it necessary to have certain abilities and achievements but, to be a good investigator, a person must develop those habits of mind and thought which we may call "intellectual virtues" (cf. 2.3 [iii]) Finally, there are those habits and capacities of thought and imagination which were described in connection with sympathetic knowledge of human interests. Just as intellectual capacities and virtues are found to foster the conditions necessary for successful inquiry of whatever type, so these habits and capacities are believed to be necessary for making fair decisions on moral issues. We may call them the "virtues of moral insight" with the understanding that they do not define either the content or the nature of moral insight, but, assuming it exists, simply represent those habits and capacities which secure the conditions under which we believe it most likely to assert itself effectively. Thus the defining characteristics of a competent judge have not been selected arbitrarily, but in each case there is a reason for choosing them which accords with the purpose of coming to know.

Finally, we can make these remarks clearer if we consider other methods of choosing the class of competent judges. It is one of the marks of an ideology that it violates the above criteria. Ideologies, of whatever type, claim a monopoly of the knowledge of truth and justice for some particular race, or social class, or institutional group, and competence is defined in terms of racial and/or sociological characteristics which have no known connection with coming to know. In the present method care has been exercised to select the class of competent moral judges according to those characteristics which are associated with coming to know something, and not by means of characteristics which are the privileged possession of any race, class, or group, but which can and often do belong, at least to certain degree, to men everywhere.

2.5 The next step in the development of our procedure is to define the class of considered moral judgments, the determining characteristics of which are as follows:

(i) It is required first that the judgment on a case be given under such conditions that the judge is immune from all of the reasonably foreseeable consequences of the judgment. For example, he will not be punished for deciding the case one way rather than another.

(ii) It is required that the conditions be such that the integrity of the judge can be maintained. So far as possible, the judge must not stand to gain in any immediate and personal way by his decision. These two tests are designed to exclude judgments wherein a person must weigh the merit of one of his own interests. The imposition of these conditions is justified on the grounds that fear and partiality are recognized obstructions in the determination of justice.

(iii) It is required that the case, on which the judgment is given, be one in which there is an actual conflict of interests. Thus, all judgments on hypothetical cases are excluded. In addition, it is preferable that the case be not especially difficult and be one that is likely to arise in ordinary life. These restrictions are desirable in order that the judgments in question be made in the effort to settle problems with which men are familiar and whereupon they have had an opportunity to reflect.

(iv) It is required that the judgment be one which has been preceded by a careful inquiry into the facts of the question at issue, and by a fair opportunity for all concerned to state their side of the case. This requirement is justified on the ground that it is only by chance that a just decision can be made without a knowledge of the relevant facts.

(v) It is required that the judgment be felt to be certain by the person making it. This characteristic may be called "certitude" and it is to be sharply distinguished from certainty, which is a logical relation between a proposition, or theory, and its evidence. This test is justified on the ground that it seems more profitable to study those judgments which are felt to be correct than those which seem to be wrong or confused even to those who make them.

(vi) It is required that the judgment be stable, that is, that there be evidence that at other times and at other places competent judges have rendered the same judgment on similar cases, understanding similar cases to be those in which the relevant facts and the competing interests are similar. The stability must hold, by and large, over the class of competent judges and over their judgments at different times. Thus, if on similar cases of a certain type, competent judges decided one way one day, and another the next, or if a third of them decided one way, a third the opposite way, while the remaining third said they did not know how to decide the cases, then none of these judg-

ments would be stable judgments, and therefore none would be considered judgments. These restrictions are justified on the grounds that it seems unreasonable to have any confidence that a judgment is correct if competent persons disagree about it.

(vii) Finally, it is required that the judgment be intuitive with respect to ethical principles, that is, that it should not be determined by a conscious application of principles so far as this may be evidenced by introspection. By the term "intuitive" I do not mean the same as that expressed by the terms "impulsive" and "instinctive." An intuitive judgment may be consequent to a thorough inquiry into the facts of the case, and it may follow a series of reflections on the possible effects of different decisions, and even the application of a common sense rule, e.g., promises ought to be kept. What is required is that the judgment not be determined by a systematic and conscious use of ethical principles. The reason for this restriction will be evident if one keeps in mind the aim of the present inquiry, namely, to describe a decision procedure whereby principles, by means of which we may justify specific moral decisions, may themselves be shown to be justifiable. Now part of this procedure will consist in showing that these principles are implicit in the considered judgments of competent judges. It is clear that if we allowed these judgments to be determined by a conscious and systematic application of these principles, then the method is threatened with circularity. We cannot test a principle honestly by means of judgments wherein it has been consciously and systematically used to determine the decision.

2.6 Up to this point I have defined, first, a class of competent judges and, second, a class of considered judgments. If competent judges are those persons most likely to make correct decisions, then we should take care to abstract those judgments of theirs which, from the conditions and circumstances under which they are made, are most likely to be correct. With the exception of certain requirements, which are needed to prevent circularity, the defining characteristics of considered judgments are such that they select those judgments most likely to be decided by the habits of thought and imagination deemed essential for a competent judge. One can say, then, that those judgments which are relevant for our present purposes are the considered judgments of competent judges as these are made from day to day on the moral issues which continually arise. No other judgments, for reasons previously stated, are of any concern.



3.1 The next step in the present method is as follows: once the class of considered judgments of competent judges has been selected, there remains to discover and formulate a satisfactory explication of the total range of these judgments. This process is understood as being a heuristic device which is likely to yield reasonable and justifiable principles.

3.2 The term "explication" is given meaning somewhat graphically as follows: Consider a group of competent judges making considered judgments in review of a set of cases which would be likely to arise in ordinary life. Then an explication of these judgments is defined to be a set of principles, such that, if any competent man were to apply them intelligently and consistently to the same cases under review, his judgments, made systematically nonintuitive by the explicit and conscious use of the principles, would be, nevertheless, identical, case by case, with the considered judgments of the group of competent judges. The range of an explication is specified by stating precisely those judgments which it is designed to explicate, and any given explication which successfully explicates its specified range is satisfactory.

3.3 The next objective, then, in the development of the present method is to discover and formulate an explication which is satisfactory, by and large, over the total range of the considered judgments of competent moral judges as they are made from day to day in ordinary life, and as they are found embodied in the many dictates of common-sense morality, in various aspects of legal procedure, and so on. If reasonable principles exist for deciding moral questions, there is a presumption that the principles of a satisfactory explication of the total range of the considered judgments of competent judges will at least approximate them. On the basis of this presumption the explication of these judgments is designed to be a heuristic device for discovering reasonable principles. Therefore, while explication is an empirical inquiry, it is felt that it is likely to be a way of finding reasonable and justifiable principles in view of the nature of the class of judgments which make up its range.

3.4 Since the concept of an explication may not be clear, I shall try to clarify it by stating some of the things that an explication is not. First, an explication is not an analysis of the meaning of the ethical terms used in the judgments constituting its range. An explication

## A PROCEDURE FOR ETHICS

attempts to do nothing more than that explicitly stated above, and in no way concerns itself with the sense of ethical expressions or with their linguistic meaning.

Second, an explication is not concerned with what people intend to assert when they use ethical expressions or make moral judgments in particular cases.

Third, an explication is not a theory about the actual causes of the considered judgments of competent judges, and this fact, in addition to the restriction to a specified class of judgments, sharply distinguishes it from a psychological or a sociological study of moral judgments. The only sense in which explication, as here defined, is concerned with causes is that a satisfactory explication can be a cause, or could be a cause, of the judgments in its range, i.e., the explicit and conscious adoption of the principles of the explication would yield the same judgments. Since explication is not concerned with the actual causes of judgments, it is immaterial whether the judgments in its range are caused by the intuition of nonnatural ethical characteristics, or by the response of intentional feelings to directly experienced value qualities, or by emotional attitudes which may in turn have been caused by certain specifiable psychological and sociological determinants. Questions about the actual causes, while interesting, are irrelevant from the standpoint of the present method. That such questions are irrelevant is also clear from the fact, previously stated, that the objectivity or subjectivity of moral judgments depends not on their causes, in any of the senses just listed, but solely on whether a reasonable decision procedure exists which is sufficiently strong to decide, at least in some cases, whether a given decision, and the conduct consequent thereto, is reasonable.

Finally, there is only one way of showing an explication to be unsatisfactory, and that is to show that there exist considered judgments of competent judges on specifiable cases for which it either fails to yield any judgments at all or leads one to make judgments inconsistent with them. Conversely, the only way to show that an explication is satisfactory is to evidence that its explicit and conscious application can be, or could be, a cause of the judgments in its range.

3.5 Having noted some of the things that an explication is not, I consider some positive features thereof. First, an explication must be such that it can be applied intelligently by a competent judge; and since a competent judge is not required to have a special training in logic

and mathematics, an explication either must be formulated or formulatable in ordinary language and its principles must be capable of an interpretation which the average competent man can grasp.

Second, an explication must be stated in the form of principles, the reason for this demand lying in the use of explication as a heuristic device. The typical form of a considered judgment is as follows: since *A, B, C, . . .*, and *M, N, O, . . .*, are the facts of the case and the interests in conflict, *M* is to be given preference over *N, O, . . .*. A considered judgment does not provide any reasons for the decision. It simply states the felt preference in view of the facts of the case and the interests competing therein. The principles of an explication must be general directives, expressible in ordinary language, such that, when applied to specific cases, they yield the preferences expressed in considered judgments.

Finally, an explication, to be completely successful, must be comprehensive; that is, it must explicate, in view of the explication itself (for this proviso, see below, 4.3), all considered judgments; and it is expected to do this with the greatest possible simplicity and elegance. The requirement of simplicity means that, other things being equal, an explication is more or less satisfactory according to the number of principles which it uses; and although this demand is difficult to state precisely, it is clear that nothing is gained if we require a separate principle for each case or for each class of cases.

3.6 The attempt to discover a comprehensive explication may be thought of as the attempt to express the invariant in the considered judgments of competent judges in the sense that, given the wide variety of cases on which considered judgments are made at different times and places, the principles of the explication are such that the conscious and systematic application of them could have been a common factor in the determination of the multiplicity of considered judgments as made on the wide variety of cases. Whether such an explication exists or not, one cannot know at present, and opinions vary; but the belief that such an explication does exist is perhaps a prerequisite for the finding of it, should it exist, for the reason that one who does not so believe is not likely to exert the great effort which is surely required to find it.

4.1 Perhaps the principal aim of ethics is the formulation of justifiable principles which may be used in cases wherein there are conflicting

## *A PROCEDURE FOR ETHICS*

interests to determine which one of them should be given preference. Therefore it remains to consider what is meant by the terms "justifiable principle" and a "rational judgment" in a particular case.

4.2 Consider the simpler question first, namely, what is the test of whether a judgment in a particular case is rational? The answer is that a judgment in a particular case is evidenced to be rational by showing that, given the facts and the conflicting interests of the case, the judgment is capable of being explicated by a justifiable principle (or set of principles). Thus if the explicit and conscious adoption of a justifiable principle (or set of principles) can be, or could have been, the ground of the judgment, or if the judgment expresses that preference which justifiable principles would yield if applied to the case, then the judgment is rational. Clearly the justification of particular judgments, if the above is correct, depends upon the use of justifiable principles. But how do we know whether a principle is justifiable? Four criteria for answering this question are considered below.

4.3 In what follows we shall assume that a satisfactory and comprehensive explication of the considered judgments of competent judges is already known (note proviso under fourth test below). Now consider the question as to what reasons we can have for accepting these principles as justifiable.

The first reason for accepting them has already been touched upon: namely, since the principles explicate the considered judgments of competent judges, and since these judgments are more likely than any other judgments to represent the mature convictions of competent men as they have been worked out under the most favorable existing conditions, the invariant in what we call "moral insight," if it exists, is more likely to be approximated by the principles of a successful explication than by principles which a man might fashion out of his own head. Individual predilections will tend to be canceled out once the explication has included judgments of many persons made on a wide variety of cases. Thus the fact that the principles constitute a comprehensive explication of the considered judgments of competent judges is a reason for accepting them. That this should be so is understandable if we reflect, to take the contrary case, how little confidence we would have in principles which should happen to explicate the judgments of men under strong emotional or physical duress, or of those mentally

ill. Hence the type of judgments which make up the range of the explication is the first ground for accepting the principles thereof.

Secondly, the reasonableness of a principle is tested by seeing whether it shows a capacity to become accepted by competent moral judges after they have freely weighed its merits by criticism and open discussion, and after each has thought it over and compared it with his own considered judgments. It is hoped that some principles will exhibit a capacity to win free and willing allegiance and be able to implement a gradual convergence of uncoerced opinion.

Thirdly, the reasonableness of a principle is tested by seeing whether it can function in existing instances of conflicting opinion, and in new cases causing difficulty, to yield a result which, after criticism and discussion, seems to be acceptable to all, or nearly all, competent judges, and to conform to their intuitive notion of a reasonable decision. For example, the problem of punishment has been a troublesome moral issue for some time, and if a principle or set of principles should be formulated which evidenced a capacity to settle this problem to the satisfaction of all, or nearly all, competent judges, then this principles, or set of principles, would meet this test in one possible instance of its application. In general, a principle evidences its reasonableness by being able to resolve moral perplexities which existed at the time of its formulation and which will exist in the future. This test is somewhat analogous to a test which we impose upon an empirical theory: namely, its ability to foresee laws and facts hitherto unknown, and to explain facts and laws hitherto unexplainable.

Finally, the reasonableness of a principle is tested by seeing whether it shows a capacity to hold its own (that is, to continue to be felt reasonable), against a subclass of the considered judgments of competent judges, as this fact may be evidenced by our intuitive conviction that the considered judgments are incorrect rather than the principle, when we confront them with the principle. A principle satisfies this test when a subclass of considered judgments, rather than the principle, is felt to be mistaken when the principle fails to explicate it. For example, it often happens that competent persons, in judging the moral worth of character, blame others in conflict with the rule that a man shall not be morally condemned for the possession of characteristics which would not have been otherwise even if he had so chosen. Frequently, however, when we point out that their judgments conflict

## *A PROCEDURE FOR ETHICS*

with this rule, these persons, upon reflection, will decide that their judgments are incorrect, and acknowledge the principle. To the extent that principles exhibit this capacity to alter what we think to be our considered judgments in cases of conflict, they satisfy the fourth test. It is, of course, desirable, although not essential, that whenever a principle does successfully militate against what is taken to be a considered judgment, some convincing reason can be found to account for the anomaly. We should like to find that the once accepted intuitive conviction is actually caused by a mistaken belief as to a matter of fact of which we were unaware or fostered by what is admittedly a narrow bias of some kind. The rationale behind this fourth test is that while the considered judgments of competent judges are the most likely repository of the working out of men's sense of right and wrong, a more likely one, for example, than that of any particular individual's judgments alone, they may, nevertheless, contain certain deviations, or confusions, which are best discovered by comparing the considered judgments with principles which pass the first three tests and seeing which of the two tends to be felt incorrect in the light of reflection. The previous proviso (3.5) is to be understood in connection with the above discussion of the fourth test.

4.4 A principle is evidenced to be reasonable to the extent that it satisfies jointly all of the foregoing tests. In practice, however, we are wise if we expect less than this. We are not likely to find easily a comprehensive explication which convinces all competent judges, which resolves all existing difficulties, and which, should there be anomalies in the considered judgments themselves, always tends to overcome them. We should expect satisfactory explications of but delimited areas of the considered judgments. Ethics must, like any other discipline, work its way piece by piece.

4.5 It is worthwhile to note that the present method of evidencing the reasonableness of ethical principles is analogous to the method used to establish the reasonableness of the criteria of inductive logic. In the latter study what we attempt to do is to explicate the full variety of our intuitive judgments of credibility which we make in daily life and in science in connection with a proposition, or theory, given the evidence for it. In this way we hope to discover the principles of weighing evidence which are actually used and which seem to be capable of winning the assent of competent investigators. The principles so gained

can be tested by seeing how well they can resolve our perplexity about how we ought to evaluate evidence in particular cases, and by how well they can stand up against what appear to be anomalous, but nevertheless settled, ways of appraising evidence, provided these anomalies exist. Thus each test above (4.3) has its parallel, or analogy, in the tests which are applied to inductive criteria. If we make the assumption that men have a capacity for knowing right and wrong, as they have for knowing what is true and false, then the present method is a likely way of developing a procedure for determining when we possess that knowledge; and we should be able to evidence the reasonableness of ethical principles in the same manner that we evidence the reasonableness of inductive criteria. On the other hand, just as the development of science and the method of science evidences the capacity to know what is true and false, so the actual formulation of ethical principles and the method whereby they can be tested, as this formulation is shown in the existence of satisfactory and reasonable explications, will evidence the capacity to know what is right and wrong as well as the validity of the objective distinction between the two. In the next sections I shall state what is designed to be such an explication.

5.1 In daily life we make moral judgments about at least three types of things: the moral worth of persons, the justice of actions, and the value of certain objects and activities. The explication below is designed to explicate our judgments on actions only. It will be necessary to make some preliminary definitions about goods and interests which will not be further discussed.

5.2 The class of things which are termed "goods" is held to fall into three subclasses: (i) good things, which are defined as being any physical objects which have a discernible capacity to satisfy, under specifiable conditions, one or more determinable needs, wants, or likings, e.g., food, clothes, houses. (ii) Good activities, which are defined as any activity which has a discernible capacity to satisfy, under specifiable conditions, one or more determinable needs, wants, or likings, e.g., the pursuit of knowledge, the creating and the contemplating of works of art, social fellowship. (iii) Enabling goods, which are defined as any object, or class of objects, or any activity or set of activities, whose use or exercise under specifiable circumstances tends to foster conditions under which goods of types (i) and (ii) may be produced, appropriated, or exercised.

## *A PROCEDURE FOR ETHICS*

The term "interest" is understood as follows: an interest is thought to be any need, want, or liking for some good, of any type; and in what follows, we are to think of this need, want, or liking as having been made articulate by means of an express claim before a body of competent judges (not of a legal, but of an ethical, court), and the claim is conceived of as asking for the possession of a good (if a thing), or as seeking the permission to exercise it (if an activity). Thus we may think of a claim as articulating an interest before a forum wherein its merits are to be weighed.

5.3 Next it is necessary to specify the kind of situation in which the problem of the justice of a decision and the action consequent thereto arises. This is done as follows: the problem of justice arises whenever it is the reasonably foreseeable consequence of the satisfaction of two or more claims of two or more persons that those claims, if given title, will interfere and conflict with one another. Hence the problem of the justice of actions, as a theoretical question, is essentially the problem of formulating reasonable principles for determining to which interests of a set of competing interests of two or more persons it is right to give preference.

5.4 It is required, further, to define a just state of affairs as follows: assuming that the principles just mentioned exist, then a state of affairs is just, if and only if, given the relevant interests in conflict prior to its establishment, those interests which are secured and satisfied within it are those which would be secured and satisfied within it if all those agents, who were instrumental in bringing it about, had intelligently applied those principles in order to determine their decisions and conduct. Otherwise a state of affairs is unjust. It can be seen from this definition that we cannot determine the justness of a situation by examining it at a single moment. We must know what interests were in existence prior to its establishment and in what manner its present characteristics have been determined by human action.

5.5 I shall now give a statement of what are hoped to be satisfactory principles of justice. The reasonableness of these principles is to be tested by the criteria discussed in 4.3. It should be said that the statement below is not intended to be more than provisional. Little attention has been given to independence, simplicity, or elegance. These are luxuries which can only be had after a fruitful statement of the necessary principles has already been given.



(i) Each claim in a set of conflicting claims shall be evaluated by the same principles. Comment: This principle expresses one aspect of what is customarily meant in the parallel case at law wherein it is said that all men shall be equal before the law. It asserts nothing about the content of the principles, but only that, whatever the principles employed may be, the same ones shall be used for all the interests in conflict, and not one set for one interest, another set for another interest.

(ii) (a) Every claim shall be considered, on first sight, as meriting satisfaction. (b) No claim shall be denied possible satisfaction without a reason. (c) The only acceptable reason for denying a possible satisfaction to a claim, or for modifying it, shall be that its satisfaction has reasonably foreseeable consequences which interfere with the satisfaction of another claim, and the formulation of this rejection or modification is reasonable provided that it can be explicated by this, together with other, principles. Comment: This principle declares that the presumption is always in favor of a claim, and it specifies what kind of reasons are required to rebut this presumption.

(iii) (a) One claim shall not be denied, or modified, for the sake of another unless there is a reasonable expectation that the satisfaction of the one will directly and substantially interfere with the satisfaction of the other. (b) The phrase "reasonable expectation" shall be construed as referring to an expectation based upon beliefs which can be validated by evidence in view of the canons of inductive procedure. (c) The more worthy the claim the greater the tolerance which shall be allowed to its interference, or presumption of interference, with other interests, and vice versa. Comment: This principle may be thought of as a generalization of the so-called "clear and present danger" rule formulated to cover decisions regarding freedom of speech, etc.

(iv) (a) Given a group of competing claims, as many as possible shall be satisfied, so far as the satisfaction of them is consistent with other principles. (b) Before modifying one interest or sacrificing one interest to another, an attempt shall be made to find a way of securing the benefits of both, which, if successful, shall be followed.

(v) (a) If means of any kind are used for the purpose of securing an interest, it shall be reasonably demonstrable that they are designed to secure it. (b) If nonneutral means, that is, means whose employment effect some other interest or interests, are used for the purpose of

securing an interest, then the appropriateness of using those means shall be determined by weighing the merits of all the interests effected in accordance with other principles. Comment: The phrase "reasonably demonstrable" is to be construed like the phrase "reasonable expectation" in (iii) (b).

(vi) (a) Claims shall be ordered according to their strength. (b) The strength of a claim depends directly and proportionately on the presence in the bearer of the claim of that characteristic which is relevant for the distribution, or the exercise, of the good. (c) Relevant characteristics are those specifiable needs, wants, and likings which the good thing or activity has a discernible capacity to satisfy under ascertainable conditions. Comment: This principle is designed to order a set of claims for a share in a particular good; and it asserts that relevant characteristics are those needs, wants, or likings whose satisfaction is ordinarily understood to be the purpose of appropriating or exercising a good. Thus, if the competing claims are for a share in a certain amount of food, then the relevant characteristic is the need for food. A test thereof should be devised, and the claims ordered accordingly. A nonrelevant characteristic for claims of this type would be the number of letters in the bearer's last name.

(vii) (a) Given a set of equal claims, as determined by their strength, all shall be satisfied equally, if that is possible. (b) Given a set of equal claims, if it is not possible to satisfy all of them, at least to some extent, then an impartially arbitrary method of choosing those to be satisfied shall be adopted. (c) Given a set of unequal claims, with subsets of equal claims which have been ordered according to (vi), then the claims shall be satisfied in that order; and, within subsets, (vii) (a) shall apply, if that is possible, otherwise (vii) (b). Comment: The term "impartially arbitrary" may be clarified as follows: Imagine a good of such a nature that it is impractical or impossible to divide it, and yet each of a number of persons has an equally strong claim on its possession or exercise. In such a case we would be directed to select one claim as meriting satisfaction by an impartially arbitrary method, e.g., by seeing who draws the highest card. This method is arbitrary because the characteristic of having drawn the highest card is not a relevant characteristic by (vi) (c). Yet the method is impartial because prior to the drawing of the cards each person has an equal chance to acquire in his person the characteristic arbitrarily taken to be relevant.

6.1 The above principles are offered as an explication of the considered judgments of competent judges made in situations involving the problem of the justice of actions. In addition, it is hoped that they will satisfy the tests of reasonableness stated in 4.3. Now it is obviously desirable to give an illustration of at least some of these principles, although space forbids any detailed discussion. The question is, how shall we illustrate them? Shall we use an imaginary example? The following considerations answers this question: just as epistemology is best studied by considering specific instances of intuitively acceptable knowledge, ethics is most profitably pursued by examining carefully instances of what seem to be intuitively acceptable and reasonable moral decisions; and just as the instances suitable for epistemology may often be found in the theories of the well-developed sciences, so instances suitable for ethics can be found in those decisions which seem to represent a well-established result of discussion on the part of moralists, jurists, and other persons who have given thought to the question at issue. Following this suggestion, I shall illustrate several principles by attempting to show that they yield an established result regarding freedom of speech and thought.

6.2 Consider the Inquisition, and recall that this institution justified its activity on the grounds that the teaching of heretics had the consequence of increasing the number of the damned and therefore of substantially interfering with the pre-eminent interests of other men in salvation. The difficulty is that there is no evidence, acceptable to the canons of inductive procedure, to support this belief, and therefore, by (iii), the proceedings of the Inquisition were unjust.

On the other hand, consider a person, or institution, adopting the rule that no one shall believe a proposition unless evidence, acceptable by the canons of inductive procedure, is known to exist as a ground for believing it, and suppose this person, or institution, takes repressive action accordingly. What are we to say of actions consequent to the adoption of this principle? We must hold that they are unjust on the grounds that (ii) is violated, since it is clear that believing propositions for which no evidence yet exists does not necessarily affect the interests of other persons. Consider the following two kinds of cases: First, it is generally recognized that hypotheses, presumed by the investigator to be true, but not known by evidence to be true, play an important part in scientific inquiry, yet no one believes that a scientist who believes

## *A PROCEDURE FOR ETHICS*

such a hypothesis, and who labors to evidence it, is, at the early stage of inquiry, acting unjustly. Second, it is generally recognized that the articles of religious faiths are not usually establishable by evidence acceptable to inductive criteria. Believers themselves are often anxious to grant this point frequently on the grounds that otherwise faith would not be faith. Yet no one, believer or unbeliever, is prepared to maintain that having religious beliefs is unjust, although some may think it mistaken. The having of such beliefs is an interest we respect, and a person is required to evidence his belief only when he proposes to take action on the basis of it which substantially interferes with the interests of other persons.

Thus, applied to the question of freedom of speech, thought, etc., principles (ii) and (iii) seem to yield what is an acceptable, and accepted, rule of justice: namely, each man may believe what he sees fit to believe, but not at the peril of another; and in an action wherein the interests of others are effected, a necessary condition for its being just is that the beliefs on which it is based are evidenced beyond any reasonable doubt.

It should be noted, in the light of this example, that we may think of rules, as opposed to principles, as maxims expressing the results of applying the principles of justice to recognized and frequently occurring types of cases. The justification for following a rule, or appealing to it in ordinary life, consists in showing that it is such a maxim. For brevity, however, we have omitted this intermediate step in discussing justification.

6.3 It is worthwhile to note how a decision with respect to a given set of conflicting interests, under given conditions, can be shown to be unjust. This is done by showing that the decision is not that decision which a competent and intelligent man would make if he used the stated principles of justice to determine his decision on the case, assuming here, for the sake of exposition, that these principles satisfy the tests in 4.3. To show that a given decision conflicts with what a principle would dictate is to give a reason for thinking it is unjust. To show this principle by principle and point by point, is to accumulate reasons against the decision and the conduct consequent thereto, so that, during the course of discussion, a decisive case may be made against it. The procedure is somewhat analogous to evidencing a

proposition or theory in the real sciences, except that in moral discussions we try to validate or invalidate decisions and the action consequent thereto, given the circumstances and the interests in conflict (not acts of believing given a proposition or theory and its evidence), and the criteria we use are the principles of justice (and not the rules of inductive logic).

6.4 The manner of describing the decision procedure here advocated may have led the reader to believe that it claims to be a way of discovering justifiable ethical principles. There are, however, no precisely describable methods of discovery, and certainly the finding of a successful explication satisfying the tests of 4.3 will require at least some ingenuity. Therefore it is best to view the exposition as a description of the procedure of justification stated in reverse. Thus if a man were asked to justify his decision on a case, he should proceed as follows: first, he should show that, given the circumstances and the interests in conflict, his decision is capable of being explicated by the principles of justice. Second, he should evidence that these principles satisfy the tests in 4.3. If asked to proceed further, he should remark on the nature of considered judgments and competent judges and urge that one could hardly be expected to prefer judgments made under emotional duress, or in ignorance of the facts by unintelligent or mentally sick persons, and so on. Finally, he should stress that such considerations arise, if the demands for justification are pushed far enough, in validating inductive criteria as well as in justifying ethical principles. Provided an explication exists satisfying the tests in 4.3, moral actions can be justified in a manner analogous to the way in which decisions to believe a proposition, or theory, are justified.

6.5 Two possible objections remain to be considered. First, it may be said that, even if the foregoing decision procedure could be carried out in a particular case, the decision in question still would not be justified. To this I should say that we ought to inquire whether the person making the objection is not expecting too much. Perhaps he expects a justification procedure to show him how the decision is deducible from a synthetic a priori proposition. The answer to a person with such hopes is that they are logically impossible to satisfy and that all we should expect is that moral decisions and ethical principles are capable of the same sort of justification as decisions to believe and inductive criteria. Secondly, it may be said that a set of principles

*A PROCEDURE FOR ETHICS*

satisfying the tests of 4.3 does not exist. To this I should say that while it is obvious that moral codes and customs have varied in time, and change from place to place, yet when we think of a successful explication as representing the invariant in the considered judgments of competent judges, then the variation of codes and customs is not decisive against the existence of such an explication. Such a question cannot be decided by analysis or by talking about possibilities, but only by exhibiting explications which are capable of satisfying the tests which are properly applied to them. At some future time I hope to be able to offer something more constructive in this direction than the brief remarks in 5.5 and 6.2.

JOHN RAWLS

*Princeton University*