

**WELCOME TO
MORAL CONTRACTUALISM**
INTRODUCTION

1/8/2016

WELCOME!

In this seminar, we will look at moral contractualism in three parts:

- Hobbesian (self-interest-based) contractualism
- Kantian (reason-based) contractualism
- Applied Issues

CONTRACTUALISM: INTRO

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WHY IS CONTRACTUALISM IMPORTANT?

There are three main approaches in normative ethics

- Consequentialism
- Deontology
- Virtue ethics

But recently a fourth contender has arisen: moral contractualism

Moral contractualism claims that **moral norms are based on some form of agreement**

CONTRACTUALISM

We can start with a super-abstract version of contractualism: **some action, rule or institution X has moral property N if and only if people have agreed in way A on X**

We will focus on the following questions:

- What are the possible objects of agreement? (What could N be?)
- What are the possible forms of agreement? (What could A be?)
- Why is contractualism attractive?
- What kind of claim is this?

**WHAT DO WE AGREE ON? (X
AND N)**

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VARIABLE N

Some examples

- We agree on X, therefore doing X is **morally right**
- We agree on X, therefore we have **a reason to do X**
- We agree on X, therefore doing X is **just**
- We agree on X, therefore a government is **permitted to force me** to do X
- We agree on X, therefore I have a **duty to obey** the government's command to do X

One important difference is between **political** and **moral** contractualism

ACTUAL AND HYPOTHETICAL CONSENT

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INTRO

Contractualism is based on the idea of agreement

We'll start with distinguishing consent from non-consent

Then we will discuss actual versus hypothetical consent

EXERCISE

Which of the following are cases of consent? If they are not, how should we classify them?

- a. Peter agrees that it would be good and fair to pay Rosie for repairing his car.
- b. When Gary entered the S&M club, he knew that there was a chance he would be chained and gagged; and he was.
- c. It's okay if you take my bicycle, only I want you to bring it back by afternoon.
- d. Celebrities expect to have their private life examined closely.
- e. You enter a restaurant and get served. When asked for money, you reply that you never agreed to pay.
- f. When the bank robbers told us "your money or your life", we chose life.
- g. We all agree that something should be done about poverty.

CONSENT AND NON-CONSENT

Consent is (roughly) active, public mental affirmation

- Consent can be conditional (as in case (c))
- Implicit Consent (case (e), but probably not case (b), certainly not (d))

Consent is **not** merely mental agreement with some proposition

- See case (a): Peter has not *consented* to pay Rosie
- In the same way, consent is not *consensus* (case (g))

For consent to be binding, it has to be **valid**

- Case (f): we can say either that this was not consent at all, or that it was consent but invalid
- Question. What are conditions for consent to be valid?

EXERCISE

John and Mary go mountain climbing. John's arm gets caught in a crevice. Mary can saw off John's arm, in which case they can get back to safety, but John's arm will be lost forever. Alternatively, Mary can try to get help, but there's a significant chance that John will die in the meantime. If he doesn't, his arm will be saved. Consider the following cases. *Would you say consent has been given? What kind of consent? Would you say it is right for Mary to chop off John's arm?*

- a. After some level-minded discussion, John says to Mary: "Chop off my arm!".
- b. Mary says: "I will saw off your arm, okay?". John looks at her as if he had accepted this horrific decision, but he doesn't say anything.
- c. John screams: "Don't do anything to my arm!". Mary believes that John can currently not make clear-minded decisions. She believes that if John considered the issue carefully, he would agree to have his arm chopped off.
- d. John is unconscious. Mary knows John well. She believes that John would not want to take the risk to die—he would want his arm chopped off.

ACTUAL AND HYPOTHETICAL CONSENT

Actual Consent what I agree with

- Explicit (case (a)), implicit (case (b))

Weak Hypothetical Consent what I would agree with *if someone asked me (had I been present, or conscious etc.)*

- Case (d); unconscious patients

Strong Hypothetical Consent what I would agree with *if someone asked me, and I was fully rational, well informed (etc.)*

- Case (c); conscious, but delirious patients

ACTUAL AND HYPOTHETICAL CONSENT

Political contractualism is usually based on the idea of actual consent

Modern views, so-called “justificatory liberalism”, is based on strong hypothetical consent

Moral contractualism (Gauthier, Scanlon) is based on the idea of strong hypothetical consent

MORAL CONTRACTUALISM

So moral contractualism claims:

It is right to do X if and only if people would agree to X *if* we asked them and *if* people were fully rational, well informed (etc.).

Much then depends on how precisely we understand the details. Two main contenders:

- Hobbesian Moral Contractualism. “If people were fully rational” = if people were fully rational in the pursuit of their self-interest
- Kantian Moral Contractualism. “If people were fully rational” = if people fully respected each other as moral equals with claims on each other

THE AIMS OF CONTRACTUALISM

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THE AIMS OF A MORAL THEORY

What are the aims of a moral theory?

Southwood:

- it should **explain the moral facts**
- The moral facts have an **extensional** and an **intensional** dimension
- Explanation is **ultimate** and **constitutive**

EXERCISE

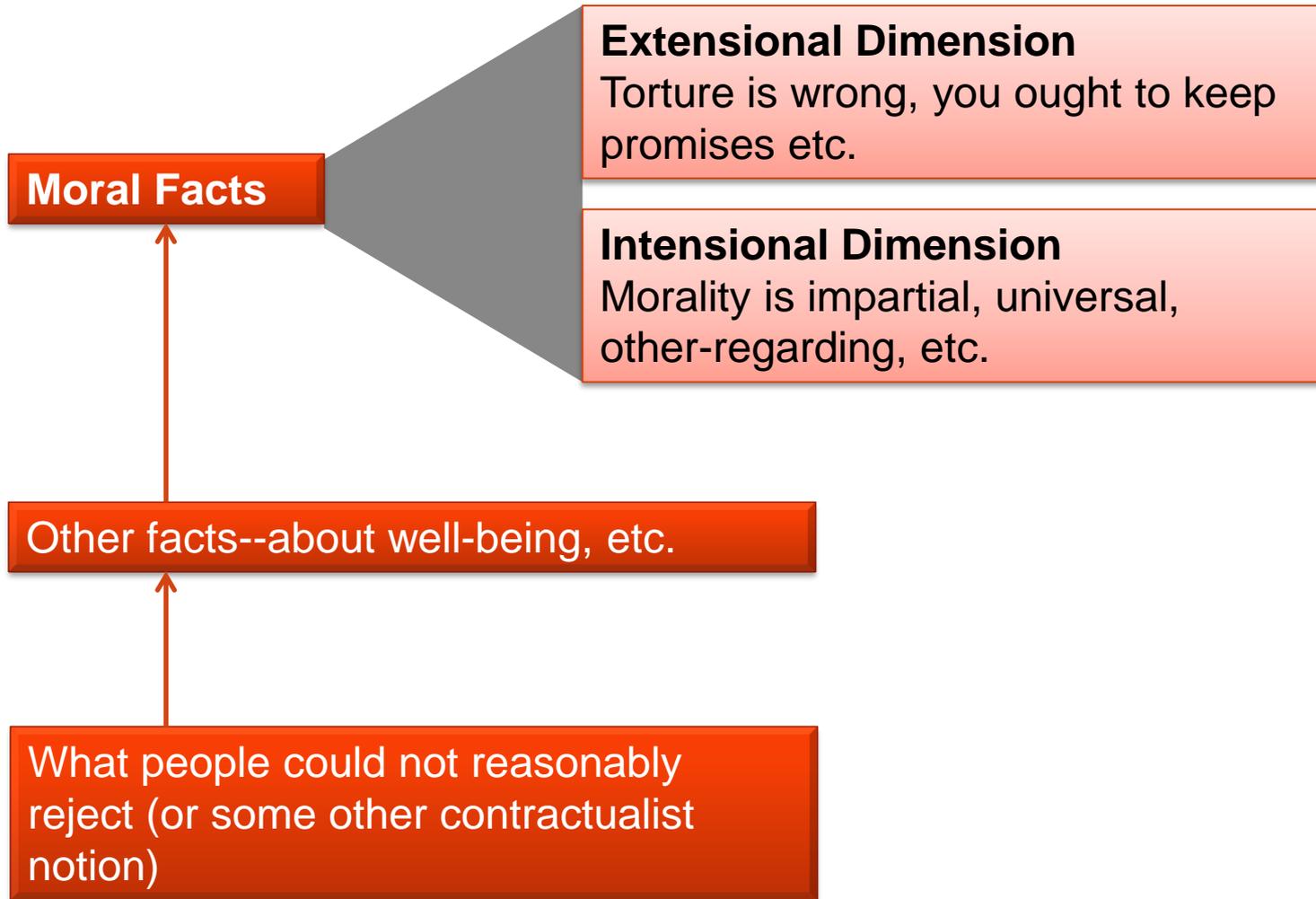
Explain the following through examples—

- The extension and intension of a property
- A non-ultimate explanation
- A constitutive explanation
- A causal explanation

Give an example of the following—

- A moral theory which is not adequate to the extension of morality
- A moral theory which is not adequate to the intension of morality
- A moral theory which is not explanatorily fundamental

ULTIMATE, CONSTITUTIVE EXPLANATION



EXERCISE

“Sometimes contractualism has been put forward [...] as an *epistemic guide* for how we ought to go about discovering what morality requires of us [...]; or as an *analysis* of moral concepts [...]; or as a purely *causal–historical explanation* of how and why the practice of morality has evolved; or even as a merely metaphorical *heuristic device* for rendering vivid to us what morality requires of us” (Southwood 2010, 4).

Explain each of these, and how they differ from Southwood’s approach to moral contractualism.

EXAMPLES

Epistemic Guide If we all come together and make a contract, we are likely to discover what morality (independently) requires

Analysis of Moral Concept If we say that some action is “morally wrong” what we *mean* is that it could be reasonably rejected

Causal-Historical Explanation We can better understand moral norms if we think about them as if they had come about through an explicit contract

Heuristic Device When you think about what is morally required, it’s useful to think about what people in the Original Position would choose