Lecture 1: Contractualism

“Within moral philosophy [utilitarianism] represents a position one must struggle against if one wishes to avoid it.”

What explains the appeal of utilitarianism?

1. From Metaethics to Ethics
Distinguish a normative moral theory and a philosophical account of the nature of morality.

A normative moral theory:
A set of moral principles of the form, “One is morally required to do such-and-such in such-and-such circumstances.”
Examples:
• Normative utilitarianism: One is morally required to produce the greatest possible sum of pleasure less pain.
• Normative intuitionism: A list of commonsense principles, like: One is morally required to keep one’s promises, not to tell lies, etc.

A philosophical account of the nature of morality:
An account that answers the following questions:
1. In virtue of what are moral judgments true?
2. How can we come to know moral judgments, if not by experience and observation?
3. Why should we care about moral judgments?

According to Scanlon a satisfactory answer:
• does not need to show that morality helps to satisfies desires or interests no matter what they are,
• “will not leave concern with morality as a simple special preference, like a fetish or a special taste, which some people just happen to have,”
• but instead will “make it understandable why moral reasons are ones that people can take seriously, and why they strike those who are moved by them as reasons of a special stringency and inescapability.”

The task of giving a philosophical account of the nature of morality differs from:
• the task of of finding the most coherent formulation of our first-order moral beliefs. Rather, it needs to tell us what our first-order moral judgments are about.
• the task of analyzing the meaning of moral terms. It’s a substantive claim about morality. It is a different claim from first-order moral claims but it may have implications for normative doctrines.

It is to be “appraised on the basis of their success in giving an account of moral belief, moral argument and moral motivation that is compatible with our general beliefs about the world: our beliefs about what kinds of things there are in the world, what kinds of observation and reasoning we are capable of, and what kinds of reasons we have for action”

2. Some Candidate Accounts of the Nature of Morality
• Philosophical Intuitionism:
  Morality concerned with a class of non-natural properties of “fittingness” or “moral suitability.”
  • Truths about these are recognized as self-evident.
  • They cannot be analyzed or explained in other terms.
This might leave concern with morality a mere fetish: “How could this independent property of moral wrongness be understood in a way that would give it the kind of importance and motivational force which moral considerations have been taken to have?”
Philosophical intuitionism is compatible with many different normative moral theories, including normative utilitarianism.

*Philosophical Utilitarianism:*
- “the only fundamental moral facts are facts about individual well-being.”

*Its appeal:*
- Uncontroversial that there is such a thing as well-being, that individuals can be made better or worse off.
- Uncontroversial that individual well-being matters, that we care about it.
- Uncontroversial that individual well-being is relevant to morality. Indeed, how could anything else be relevant to morality?

Philosophical utilitarianism makes normative utilitarianism plausible.

3. **Contractualism as an Alternative Account:**

*Contractualism:*
An act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement.

*“Reasonably”*
Reasonably given the aim of finding principles that could be the basis of informed, unforced general agreement.
- It is not reasonable, for example, to reject a rule that imposes small burdens on you, when any other rule would impose much greater burdens on others.

*Who is included in the agreement?*
To be included, creatures need to have a good (there must be a clear sense in which they can be better or worse off), their good needs to be comparable to ours (otherwise there will not be any determinate answer to what can be reasonably rejected or not).
Creatures to whom we can address justifications for certain rules, who can understand and accept or reject our justifications. At the very least, they need to have a point of view.

*Is the set of principles unique?*
- There can be many non-equivalent sets of rules that pass the test of non-rejectability. So, there is some room for convention to choose precisely which form these rules take and hence some room for cultural relativity.
- But once a form of a rule is conventionally established, acts that violate it will be wrong. Why? Because “given the need for such conventions, one thing that could not be generally agreed to would be a set of principles allowing one to disregard conventionally established (and morally acceptable) definitions of important duties.”

- Contractualism’s explanation of why we should care about morality:
  “According to contractualism, the source of motivation that is directly triggered by the belief that an action is wrong is the desire to be able to justify one’s actions to others on grounds they could not reasonably reject.”
- Not, directly, a desire to make others’ lives better.
- Not a desire that others in fact accept one’s justification.
- It might be satisfactory, but they might be too narcissistic to accept it.
- Or it might be unsatisfactory, but they might be so servile that they accept it.
- Rough test for acceptability of justification is Golden Rule.
Contractualism explains why well-being should matter: because someone could reasonably reject a principle that gave his well-being no weight. This does not mean that every desire (of equal intensity) will have (equal) moral weight. There may be some desires that others can reasonably refuse to help me satisfy, e.g. anti-social desires, religious desires, etc.

4. Contractualism as a Normative Doctrine

*What normative implications does contractualism have?*

It seems implausible that it would yield act utilitarianism. Some moral questions may be settled by maximum well-being but it seems unlikely that this would be the justificatory standard for all questions.

It seems less plausible that it would yield something like rule consequentialism. But, there are two differences: First, unlike rule consequentialism, contractualism takes principles to be fundamental. It does not justify them by appeal to an independent standard.

Second, contractualism is unlikely to yield principles whose general adoption would promote maximum well-being.

*Harsanyi’s argument for average utilitarianism:*

Question: What rule would you have been willing to choose, if you cared only about your own well-being, but you did not know who you would be?

You would choose the rule that would maximize expected well-being, given an equal chance of being anyone. This would lead to average utilitarianism. As we have seen, this could justify great costs to a few in order to give smaller benefits to many.

*Contrast Scanlon:*

Question: Could you reasonably reject average utilitarianism, if you were trying to reach free, informed agreement with others?

Yes, you could reasonably reject a rule that imposed great costs on you in order to give smaller benefits to many. This is because contractualism is “nonaggregative.” We aim to justify rules to each person, not to sums of people. Whether you can reasonably reject a rule depends on a comparison of how it affects you with how any alternative affects any other individual.

Thus, contractualism compares only individual losses and gains. Lots of little gains to different people cannot be summed together to outweigh a great loss to one individual.

**Readings**