DEBATING HANDBOOK

STRATEGY

Preparation

- Allocate adequate time for defining the motion
- Allocate adequate time for defining a model
- Start by generating one example
- Have as many sub-points as possible
- In high burden motions, admit higher burden
- In high burden motions, attempt to change the question slightly
- Have clearly stated team lines and stupids if possible
- Think about main clash points prior to the debate and prioritize the largest clash point first

Argument Generation

- Ask the 3 questions in generating arguments
    - Is it Right?
    - Is it a good idea? (will good things happen)
    - Is it practical?
- And 2 more questions
    - Where is the debate taking place?
    - Who are the main stakeholders and how are they affected?
- Build layers of analysis by asking question 'why?'
- Have as many sub-points as possible
- Analyse arguments on 'Now, Action, Then' model
- Have atleast 2 examples for each argument, preferably from different parts of the world, If examples are not possible, generate thought experiments.

Presentation of speeches

- 1st speaker must explain model and some context to the debate
- All alternative models presented by opposition must be presented in the 1st speech
- All speakers must have a small introduction to their speeches

Rebuttal

- 1st and 2 speakers of both teams must have explicit rebuttal (ie earlier speaker said X, this is our rebuttal).
- 3rd speakers present rebuttals in thematic points of clash
- 2nd speakers will also present explicit defense of their initial arguments
- Follow 3 level rebuttal – Level 3 preferred
    - Level 1 – Example
    - Level 2 – Argument
    - Level 3 - Premise

At the debate

- Have a common piece of paper where notes, good arguments/rebuttals, and POI's are passed around

POI's

- Ensure that teams have atleast 2 POI's prepared in the prep room that will be asked of the opposition regardless of which speaker is entertained
- Ensure that POI's ALWAYS make opposition CHOSE between one or the other
- Attempt to make POI's question principled stances, especially in the first speeches

Note taking

- All speakers have two columns – They say, We Say
- 2nd speakers have an additional column – Defense

RANDOM TIPS, CONCEPTS AND PRINCIPLES

- In criminalize debates, prove proportionate and attempt to show legal precedence
- Just because there are other things that can be done does not mean this should not be done as well
- Just because something is hard to do does not mean we should not try to do it (Rape is hard to prosecuted)
- Just because something will not work 100% does not mean that things will not be better than before.
- In a Private to Public debate, speak of how the public sector is enhanced by, the former private sector consumer entering the public sector hence demanding higher level of services
- In a debate discussing Harm to one self, proponents to lay down criteria for such harm to be – fully informed, consensual, not duress, rational choice
- In debates on something Unfair, go the extra mile in showing that unfairness also leads to social instability.
- In a debate on legalizing something, the debate is not whether the certain act is bad or not (although that can be one argument) but rather whether it should be legal.

CATCHWORDS IN DEBATING

- Principled Imperative
- Legitimate and Proportionate

RANDOM IDEAS ON MOTION TYPES

ART

For - Rare, expression, historical context, society has given a value to it (rich people give a lot of money for it, but don't let anyone else see it), political statements in art, cultural existence

Against – It's value is limited to a few, supply exists if adequate demand is created

DEMOCRACY

Things required – minority protection, equality, free & fair elections, universal suffrage (right to vote), Freedom of expression & information, 4th estate, property rights (opp-eminent domain), education to participate in politics, helps capitalism (opp-capitalism can exist successfully without democracy).

Random e.g Berlusconi owns 6 of the 7 natl media organizations in Italy

EXTERNALITIES

Marginal Social Benefit/ cost from actions that cause society benefit/harm

TRADE

Comparative advantage – David Ricardo

ECONOMICS

Capitalism – Free prices, Efficient allocation of capital & resources, incentivisation hence growth

Rests on law and contracts and fulfillment of obligations

Keynesians –Govt spending

Fiscal & Monetary policy

LAW

Objectives of the Justice System – Deterrence, Retribution & Rehabilitation (Debates can be made on the relative importance of one over the other

2 Elements of a crime

- *Mensrea* (Criminal Mind/ Motive)
- *Actus reus* (Criminal action)

Those mentally ill have diminished responsibility due to lack of *Mensrea*

QUOTA FOR WOMEN

(Social Engineering/ Glass Ceiling)

Enron example-recommendations to incorporate more women, broader age categories

Carol Gilligan - women tend to be more prudent, bring new perspective

Men are ok with women working alongside them, but not being their bosses.

LEGALIZATION DEBATE

Role of the State (Protect choice vs Protect people)

Choice vs why certain things are illegal

Harms to Society vs Benefits (Blackmarkets & Regulation, Safety)

Illegal makes people more likely to do it

GENERAL PRINCIPLES USED IN DEBATES

SOCIAL CONTRACT

Social contract describes a broad class of theories that try to explain the ways in which people form states and/or maintain social order. The notion of the social contract implies that the people give up some rights to a government or other authority in order to receive or maintain social order.

Social contract theory formed a central pillar in the historically important notion that legitimate state authority must be derived from the consent of the governed. The starting point for most of these theories is a heuristic examination of the human condition absent from any structured social order, usually termed the "state of nature". In this condition, an individual's actions are bound only by his or her personal power, constrained by conscience. From this common starting point, the various proponents of social contract theory attempt to explain, in different ways, why it is in an individual's rational self-interest to voluntarily give up the freedom one has in the state of nature in order to obtain the benefits of political order.

Thomas Hobbes (1651), John Locke (1689) and Jean-Jacques Rousseau (1762) are the most famous philosophers of contractarianism, which formed the theoretical groundwork of democracy and republicanism.

The social contract and the civil rights it gives us are neither "natural rights" nor permanently fixed. Rather, the contract itself is the means towards an end — the benefit of all — and (according to some philosophers such as Locke or Rousseau), is only legitimate to the extent that it meets the general interest ("general will" in Rousseau). Therefore, when failings are found in the contract, we renegotiate to change the terms, using methods such as elections and legislature. Locke theorized the right of rebellion in case of the contract leading to tyranny.

Since civil rights come from agreeing to the contract, those who choose to violate their contractual obligations, such as by committing crimes, abdicate their rights, and the rest of society can be expected to protect itself against the actions of such outlaws. To be a member of society is to accept responsibility for following its rules, along with the threat of punishment for violating them. In this way, society works by "mutual coercion, mutually agreed upon" (Hardin 1968).

Criticism

According to the will theory of contract, which was dominant in the 19th century and still exerts a strong influence, a contract is not presumed valid unless all parties agree to it voluntarily, either tacitly or explicitly, without coercion. Lysander Spooner, a 19th century lawyer and staunch supporter of a right of contract between individuals, in his essay No Treason, argues that a supposed social contract cannot be used to justify governmental actions such as taxation, because government will initiate force against

anyone who does not wish to enter into such a contract. As a result, he maintains that such an agreement is not voluntary and therefore cannot be considered a legitimate contract at all.

Modern Anglo-American law, like European civil law, is based on a will theory of contract, according to which all terms of a contract are binding on the parties because they chose those terms for themselves. This was less true when Hobbes wrote Leviathan; then, more importance was attached to consideration, meaning a mutual exchange of benefits necessary to the formation of a valid contract, and most contracts had implicit terms that arose from the nature of the contractual relationship rather than from the choices made by the parties. Accordingly, it has been argued that social contract theory is more consistent with the contract law of the time of Hobbes and Locke than with the contract law of our time, and that features in the social contract which seem anomalous to us, such as the belief that we are bound by a contract formulated by our distant ancestors, would not have seemed as strange to Hobbes' contemporaries as they do to us.[6]

POPULAR SOVEREIGNTY

Popular sovereignty or the sovereignty of the people is the belief that the legitimacy of the state is created by the will or consent of its people, who are the source of all political power. It is closely associated with the social contract philosophers, among whom are Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. Popular sovereignty expresses a concept and does not necessarily reflect or describe a political reality.[1] It is often contrasted with the concept of parliamentary sovereignty. Benjamin Franklin expressed the concept when he wrote, "In free governments the rulers are the servants and the people their superiors and sovereigns."[2]

Criticism

Parliamentary sovereignty, Sovereignty of Parliament, parliamentary supremacy, or legislative supremacy is a concept in constitutional law that applies to some parliamentary democracies. Under parliamentary sovereignty, a legislative body has absolute sovereignty, meaning it is supreme to all other government institutions (including any executive or judicial bodies as they may exist). Furthermore, it implies that the legislative body may change or repeal any prior legislative acts. Parliamentary sovereignty contrasts with notions of judicial review, where a court may overturn legislation deemed unconstitutional. Specific instances of parliamentary sovereignty exist in the United Kingdom, Finland and New Zealand.

RIGHTS

Legal rights (sometimes also called civil rights or statutory rights) are rights conveyed by a particular polity, codified into legal statutes by some form of legislature (or unenumerated but implied from enumerated rights), and as such are contingent upon local laws, customs, or beliefs. In contrast, natural rights (also called moral rights or inalienable rights) are rights which are not contingent upon the laws, customs, or beliefs of a particular society or polity. Natural rights are thus necessarily universal, whereas legal rights are culturally and politically relative.

Blurring the lines between natural and legal rights, U.S. statesman James Madison believed that some rights, such as trial by jury, are social rights, arising neither from natural law nor from positive law but from the social contract from which a government derives its authority.[1]

Criticism

The concept of inalienable rights was criticized by Jeremy Bentham and Edmund Burke as groundless. Bentham and Burke, writing in the eighteenth century, claimed that rights arise from the actions of government, or evolve from tradition, and that neither of these can provide anything inalienable. (See Bentham's "Critique of the Doctrine of Inalienable, Natural Rights", and Burke's "Reflections on the Revolution in France"). Keeping with shift in thinking in the 19th century, Bentham famously dismissed the idea of natural rights as "nonsense on stilts".

The signers of the Declaration of Independence deemed it a "self evident truth" that all men are "endowed by their Creator with certain unalienable Rights". Critics[who?], however, could argue that use of the word "Creator" signifies that these rights are based on theological principles, and might question which theological principles those are, or why those theological principles should be accepted by people who do not adhere to the religion from which they are derived[citation needed]. In "The Social Contract," Jean-Jacques Rousseau claims that the existence of inalienable rights is unnecessary for the existence of a constitution or a set of laws and rights. This idea of a social contract – that rights and responsibilities are derived from a consensual contract between the government and the people – is the most widely recognized alternative.

Samuel P. Huntington, an American political scientist, wrote that the "inalienable rights" argument from the Declaration of Independence was necessary because "The British were white, Anglo, and Protestant, just as we were. They had to have some other basis on which to justify independence".[citation needed]

JOHN RAWLS – THEORY OF JUSTICE

Like Hobbes, Locke, Rousseau and Kant, Rawls belongs to the social contract tradition. However, Rawls' social contract takes a slightly different form from that of previous thinkers. Specifically, Rawls develops what he claims are principles of justice through the use of an entirely and deliberately artificial device he calls the Original position, in which everyone decides principles of justice from behind a veil of ignorance. This "veil" is one that essentially blinds people to all facts about themselves that might cloud what notion of justice is developed.

"no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance."

According to Rawls, ignorance of these details about oneself will lead to principles that are fair to all. If an individual does not know how he will end up in his own conceived society, he is likely not going to privilege any one class of people, but rather develop a scheme of justice that treats all fairly. In particular, Rawls claims that those in the Original Position would all adopt a maximin strategy which would maximise the position of the least well-off.

They are the principles that rational and free persons concerned to further their own interests would accept in an initial position of equality as defining the fundamentals of the terms of their association [Rawls, p 11]

It is important to keep in mind that the agreement that stems from the original position is both hypothetical and nonhistorical. It is hypothetical in the sense that the principles to be derived are what the parties would, under certain legitimating conditions, agree to, not what they have agreed to. In other words, Rawls seeks to persuade us through argument that the principles of justice that he derives are in fact what we would agree upon if we were in the hypothetical situation of the original position and that those principles have moral weight as a result of that. It is nonhistorical in the sense that it is not supposed that the agreement has ever, or indeed could actually be entered into as a matter of fact.

Rawls claims that the parties in the original position would adopt two such principles, which would then govern the assignment of rights and duties and regulate the distribution of social and economic advantages across society.The difference principle permits inequalities in the distribution of goods only if those inequalities benefit the worst-off members of society. Rawls believes that this principle would be a rational choice for the representatives in the original position for the following reason: Each member of society has an equal claim on their society's goods. Natural attributes should not affect this claim, so the basic right of any individual, before further considerations are taken into account, must be to an equal share in material wealth. What, then, could justify unequal distribution? Rawls argues that inequality is acceptable only if it is to the advantage of those who are worst-off.

The First Principle of Justice

First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others] "

The basic liberties of citizens are, roughly speaking, political liberty (i.e., to vote and run for office), freedom of speech and assembly, liberty of conscience, freedom of property; and freedom from arbitrary arrest. It is a matter of some debate whether freedom of contract can be inferred to be included among these basic liberties.

The first principle is more or less absolute, and may not be violated, even for the sake of the second principle, above an unspecified but low level of economic development (i.e. the first principle is, under most conditions, lexically prior to the second principle). However, because various basic liberties may conflict, it may be necessary to trade them off against each other for the sake of obtaining the largest possible system of rights. There is thus some uncertainty as to exactly what is mandated by the principle, and it is possible that a plurality of sets of liberties satisfy its requirements.

The Second Principle of Justice

Social and economic inequalities are to be arranged so that (Rawls, 1971, p.303):

a) they are to be of the greatest benefit to the least-advantaged members of society (the difference principle).

b) offices and positions must be open to everyone under conditions of fair equality of opportunity

Rawls' claim in a) is that departures from equality of a list of what he calls primary goods – 'things which a rational man wants whatever else he wants' [Rawls, 1971, pg. 92] – are justified only to the extent that they improve the lot of those who are worst-off under that distribution in comparison with the previous, equal, distribution. His position is at least in some sense egalitarian, with a proviso that equality is not to be achieved by worsening the position of the least advantaged. An important consequence here, however, is that inequalities can actually be just on Rawls's view, as long as they are to the benefit of the least well off. His argument for this position rests heavily on the claim that morally arbitrary factors (for example, the family we're born into) shouldn't determine our life chances or opportunities. Rawls is also keying on an intuition that we do not deserve inborn talents, thus we are not entitled to all the benefits we could possibly receive from them, meaning that at least one of the criteria which could provide an alternative to equality in assessing the justice of distributions is eliminated.

The stipulation in b) is lexically prior to that in a). 'Fair equality of opportunity' requires not merely that offices and positions are distributed on the basis of merit, but that all have reasonable opportunity to acquire the skills on the basis of which merit is assessed. It is often thought that this stipulation, and even the first principle of justice, may require greater equality than the difference principle, because large social and economic inequalities, even when they are to the advantage of the worst-off, will tend

to seriously undermine the value of the political liberties and any measures towards fair equality of opportunity.

Criticism

Robert Nozick – Anarchy, State & Utopia – Entitlement Theory

Entitlement Theory is a theory of private property created by Robert Nozick in his book Anarchy, State, and Utopia. The theory is Nozick's attempt to describe "justice in holdings" (Nozick 1974:150) - or what can be said about and done with the property people own when viewed from a principle of justice.

Nozick's entitlement theory comprises 3 main principles:

A principle of justice in acquisition - This principle deals with the initial acquisition of holdings. It is an account of how people first come to own common property, what types of things can be held, and so forth.

A principle of justice in transfer - This principle explains how one person can acquire holdings from another, including voluntary exchange and gifts.

A principle of rectification of injustice - how to deal with holdings that are unjustly acquired or transferred, whether and how much victims can be compensated, how to deal with long past transgressions or injustices done by a government, and so on.

Nozick believes that if the world were wholly just, only the first two principles would be needed, as "the following inductive definition would exhaustively cover the subject of justice in holdings":

A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.

A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.

No one is entitled to a holding except by (repeated) applications of 1 and 2. (Nozick 1974:151)

Thus, Entitlement Theory would imply "a distribution is just if everyone is entitled to the holdings they possess under the distribution" (Nozick 1974:151). Unfortunately, not everyone follows these rules: "some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges" (Nozick 1974:152). Thus the third principle of rectification is needed.

Entitlement Theory is based on John Locke's ideas.[1] Under Entitlement Theory, people are represented as ends in themselves and equals, as Kant claimed, though different people may own (ie. be entitled to) different amounts of property. Nozick's ideas create a strong system of private property and a free-market economy. The only just transaction is a voluntary one. Taxation of the rich to support social

programs for the poor are unjust because the state is acquiring money by force instead of through a voluntary transaction.

Entitlement Theory contrasts sharply with the Difference Principle in Rawls' A Theory of Justice, which states that each person has an equal claim to basic rights and liberties, and that inequality should only be permitted to the degree that it helps the people on the bottom. Nozick instead argues that people who have or produce certain things have rights over them: "on an entitlement view, [production and distribution] are not .. separate questions .. things come into the world already attached to people having entitlements over them" (Nozick 1974:160). Nozick believes that unjustly taking someone's holdings violates their rights. "Holdings to which .. people are entitled may not be seized, even to provide equality of opportunity for others" (Nozick 1974:235). Thus, a system which works to reduce the rightfully earned holdings of some so that they can be equally distributed to others is immoral.

"The major objection to speaking of everyone's having a right to various things such as equality of opportunity, life, and so on, and enforcing this right, is that these 'rights' require a substructure of things and materials and actions; and other people may have rights and entitlements over these. No one has a right to something whose realization requires certain uses of things and activities that other people have rights and entitlements over" (Nozick 1974:238).

Entitlement Theory also contrasts with the Marxist belief that there should be no inequality at all, and therefore no private ownership of the means of production or entitlements stemming from that.

DEONTOLOGICAL ETHICS – IMMANUAL KANT (MORAL UNIVERSALISM)

Deontological ethics or deontology (from Greek δέον, deon, "obligation, duty"; and -λογία, -logia) is an approach to ethics that holds that acts are inherently good or evil, regardless of the consequences of the acts. A central theme among deontological theorists is that we have a duty to do those things that are inherently good ("truth-telling" for example); while the ends or consequences of our actions are important, our obligation or duty is to take the right action, even if the consequences of a given act may be bad.[1]

It is sometimes described as "duty" or "obligation" based ethics, because deontologists believe that ethical rules "bind you to your duty".[2] The term 'deontological' was first used in this way in 1930, in C. D. Broad's book, Five Types of Ethical Theory.[3]

Kant –

A moral act is that which would be right for any person in similar circumstances to those of any other agents who find themselves executing the act unconditionally according to universal principles which respect persons intrinsically rather than those that pursue each person's own ends. The capacity that allows us to make moral decisions is called pure practical reason, which is contrasted with pure reason (the capacity to know) and mere practical reason (which allows us to interact with the world in experience). Hypothetical imperatives guide action in an instrumental way: they tell us which means would be best to achieve our ends. They do not, however, tell us anything about the ends that we ought to choose. Kant, conversely, considers the right to be prior to the good; in fact, he holds that the good achieved is of moral irrelevance. The morally condign cannot be determined with reference to anything empirical or sensuous; they can only be determined a priori, by pure practical reason.

Categorical Imperative - Act only according to that maxim whereby you can at the same time will that it should become a universal law

Interpretation –

Although Kant was intensely critical of the use of examples as moral yardsticks, because they tend to rely on our moral intuitions (feelings) rather than our rational powers, this section will explore some interpretations of the categorical imperative for illustrative purposes.

Deception

Further information: Doctrine of mental reservation

Kant asserted that lying, or deception of any kind, would be forbidden under any interpretation and in any circumstance. In Grounding, Kant gives the example of a person who seeks to borrow money without intending to pay it back. This is a contradiction because if it were a universal action, no person would lend money anymore as he knows that he will never be paid back. The maxim of this action, says

Kant, results in a contradiction in conceivability (and thus contradicts perfect duty). With lying, it would logically contradict the reliability of language. If it is universally acceptable to lie, then no one would believe anyone and all truths would be assumed to be lies. The right to deceive could also not be claimed because it would deny the status of the person deceived as an end in himself. And the theft would be incompatible with a possible kingdom of ends. Therefore, Kant denied the right to lie or deceive for any reason, regardless of context or anticipated consequences.

Theft

Kant argued that any action taken against another person to which he or she could not possibly consent is a violation of perfect duty interpreted through the second formulation. If a thief were to steal a book from an unknowing victim, it may have been that the victim would have agreed, had the thief simply asked. However, no person can consent to theft, because the presence of consent would mean that the transfer was not a theft. Since the victim could not have consented to the action, it could not be instituted as a universal law of nature, and theft contradicts perfect duty.

Suicide

Kant applied his categorical imperative to the issue of suicide in Grounding for the Metaphysics of Morals, writing that:

A man reduced to despair by a series of misfortunes feels sick of life, but is still so far in possession of his reason that he can ask himself whether taking his own life would not be contrary to his duty to himself. Now he asks whether the maxim of his action could become a universal law of nature. But his maxim is this: from self-love I make as my principle to shorten my life when its continued duration threatens more evil than it promises satisfaction. There only remains the question as to whether this principle of self-love can become a universal law of nature. One sees at once that a contradiction in a system of nature whose law would destroy life by means of the very same feeling that acts so as to stimulate the furtherance of life, and hence there could be no existence as a system of nature. Therefore, such a maxim cannot possibly hold as a universal law of nature and is, consequently, wholly opposed to the supreme principle of all duty.

Laziness

Kant also applies the categorical imperative in Grounding for the Metaphysics of Morals on the subject of "failing to cultivate one's talents." He proposes a man who if he cultivated his talents could bring many goods, but he has everything he wants and would prefer to enjoy the pleasures of life instead. The man asks himself how the universality of such a thing works. While Kant agrees that a society could subsist if everyone did nothing, he notes that the man would have no pleasures to enjoy, for if everyone let their talents go to waste, there would be no one to create luxuries that created this theoretical situation in the first place. Not only that, but cultivating one's talents is a duty to oneself. Thus, it is not willed to make laziness universal, and a rational being has imperfect duty to cultivate its talents. Kant concludes in Grounding:

...he cannot possibly will that this should become a universal law of nature or be implanted in us as such a law by a natural instinct. For as a rational being he necessarily wills that all his faculties should be developed, inasmuch as they are given him for all sorts of possible purposes.

Charity

Kant's last application of the categorical imperative in Grounding for the Metaphysics of Morals is of charity. He proposes a fourth man who finds life fine but sees other people struggling with life. This man ponders about what if he did nothing to help those in need while not envying them or accepting anything from them. While Kant admits that humanity could subsist (and admits it could possibly perform better) if this was universal, he states in Grounding that:

But even though it is possible that a universal law of nature could subsist in accordance with that maxim, still it is impossible to will that such a principle should hold everywhere as a law of nature. For a will which resolved in this way would contradict itself, inasmuch as cases might often arise in which one would have need of the love and sympathy of others and in which he would deprive himself, by such a law of nature springing from his own will, of all hope of the aid he wants for himself

Criticism – Utilitarianism (John Stuart Mill/ Jeremy Bentham)

Utilitarianism is the idea that the moral worth of an action is determined solely by its contribution to overall utility: that is, its contribution to happiness or pleasure as summed among all people. It is thus a form of consequentialism, meaning that the moral worth of an action is determined by its outcome. Utility, the good to be maximized, has been defined by various thinkers as happiness or pleasure (versus suffering or pain), although preference utilitarians like Peter Singer define it as the satisfaction of preferences. It may be described as a life stance, with happiness or pleasure being of ultimate importance.

Utilitarianism is described by the phrase "the greatest good for the greatest number of people". Therefore, it is also known as "the greatest happiness principle". Utilitarianism can thus be characterised as a quantitative and reductionist approach to ethics. It can be contrasted with deontological ethics (which do not regard the consequences of an act as the sole determinant of its moral worth) and virtue ethics (which focuses on character), as well as with other varieties of consequentialism. Adherents of these opposing views have extensively criticised the utilitarian view, but utilitarians have been similarly critical of other schools of thought. And like any ethical theory, the application of utilitarianism is heavily dependent on the moral agent's full range of wisdom, experience, social skills, and life skills.

Harm Principle – John Stuart Mill

The object of this Essay is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be

physical force in the form of legal penalties, or the moral coercion of public opinion. That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right... The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.

MERITOCRACY

is a system of a government or other organization wherein appointments are made and responsibilities assigned based on demonstrated talent and ability (merit)[1], rather than by wealth (plutocracy), family connections (nepotism), class (oligarchy), friendship (cronyism), seniority (gerontocracy), popularity (democracy) or other historical determinants of social position and political power. In a meritocracy, society rewards (by wealth, position, and social status) those who show talent and competence as demonstrated by past actions or by competition.

Criticism

In Merit and Justice, Amartya Sen complains about the lack of a precise definition of what merit is meant to be (and consequently meritocracy). One of his main criticisms of the common account of meritocracy can be clearly seen in such examples as Singapore and Open Source Projects: it is the "confounding merit of actions with that of persons (and possibly of groups of people)". Singapore and Open Source Projects choose their leaders through past performance in tests and code submitted respectively, so merit is given to people (based on past performance) instead of their actions (which would need continuous assessment).

The Peter principle, "In a Hierarchy Every Employee Tends to Rise to His Level of Incompetence" notes that meritocracy promotes individuals based on the ability to perform their prior assignment, not the new assignment.

Another issue facing proponents of meritocracy is the arbitrariness in the definition of merit, and what qualifies as such. Who decides or judges what is considered to be merit is another challenge for some forms of meritocracy, and can lead to the centralization of power into the hands of a few judges or officials who decide upon such. Other forms of meritocracy, such as technocracy, are more resilient to these issues as "demonstrated technical expertise" is easier to measure objectively than an abstract conception of "merit".

COLLECTIVE ACTION PROBLEM

Tragedy of the Commons

"The Tragedy of the Commons" was an influential article written by Garrett Hardin and first published in the journal Science in 1968. The article describes a dilemma in which multiple individuals acting independently and solely and rationally consulting their own self-interest will ultimately destroy a shared limited resource even when it is clear that it is not in anyone's long term interest for this to happen.

Solutions – State provides vs Privatize and make contracts

Prisoners' Dilemma – Nash Equilibrium

Two suspects are arrested by the police. The police have insufficient evidence for a conviction, and, having separated both prisoners, visit each of them to offer the same deal. If one testifies (defects from the other) for the prosecution against the other and the other remains silent (cooperates with the other), the betrayer goes free and the silent accomplice receives the full 10-year sentence. If both remain silent, both prisoners are sentenced to only six months in jail for a minor charge. If each betrays the other, each receives a five-year sentence. Each prisoner must choose to betray the other or to remain silent. Each one is assured that the other would not know about the betrayal before the end of the investigation. How should the prisoners act?

If we assume that each player cares only about minimizing his or her own time in jail, then the prisoner's dilemma forms a non-zero-sum game in which two players may each cooperate with or defect from (betray) the other player. In this game, as in all game theory, the only concern of each individual player (prisoner) is maximizing his or her own payoff, without any concern for the other player's payoff. The unique equilibrium for this game is a Pareto-suboptimal solution, that is, rational choice leads the two players to both play defect, even though each player's individual reward would be greater if they both played cooperatively.

In the classic form of this game, cooperating is strictly dominated by defecting, so that the only possible equilibrium for the game is for all players to defect. No matter what the other player does, one player will always gain a greater payoff by playing defect. Since in any situation playing defect is more beneficial than cooperating, all rational players will play defect, all things being equal.

Criticism

Article 11, paragraph 2 of the Universal Declaration of Human Rights provides that no person be held guilty of any criminal law that did not exist at the time of offence nor suffer any penalty heavier than what existed at the time of offense. It does however permit application of either domestic or international law.

Article 15, paragraph 1 of the International Covenant on Civil and Political Rights nearly mirrors the language used by the Universal Declaration of Human Rights, replacing the term 'penal offense' with 'criminal offense'. It also adds that if a lighter penalty is provided for after commission of the offense, that lighter penalty shall apply. Paragraph 2 adds a provision that paragraph 1 does not prevent trying and punishing for an act that was criminal under according to the general principles of law recognized by the community of nations. Specifically addressing the use of the death penalty, article 6, paragraph 2 provides in relevant part that a death sentence may only be imposed "...for the most serious crimes in accordance with the law in force at the time of the commission of the crime...."

VICARIOUS LIABILITY

Vicarious liability is a form of strict, secondary liability that arises under the common law doctrine of agency – respondeat superior – the responsibility of the superior for the acts of their subordinate, or, in a broader sense, the responsibility of any third party that had the "right, ability or duty to control" the activities of a violator. It can be distinguished from contributory liability, another form of secondary liability, which is rooted in the tort theory of enterprise liability.

Common examples are

- Employer's Liability
- Principal's Liability
- Parental Liability

FIDUCIARY RESPONSIBILITY

A fiduciary duty is a legal or ethical relationship of confidence or trust between two or more parties, most commonly a fiduciary or trustee and a principal or beneficiary. One party, for example a corporate trust company or the trust department of a bank, holds a fiduciary relation or acts in a fiduciary capacity to another, such as one whose funds are entrusted to it for investment. In a fiduciary relation one person justifiably reposes confidence, good faith, reliance and trust in another whose aid, advice or protection is sought in some matter. In such a relation good conscience requires one to act at all times for the sole benefit and interests of another, with loyalty to those interests.

MORAL HAZARD

Moral hazard is the prospect that a party insulated from risk may behave differently from the way it would behave if it were fully exposed to the risk. In insurance, moral hazard that occurs without conscious or malicious action is called morale hazard.

Moral hazard is a special case of information asymmetry, a situation in which one party in a transaction has more information than another. The party that is insulated from risk generally has more information about its actions and intentions than the party paying for the negative consequences of the risk. More broadly, moral hazard occurs when the party with more information about its actions or intentions has a tendency or incentive to behave inappropriately from the perspective of the party with less information.

Moral hazard arises because an individual or institution does not take the full consequences and responsibilities of its doings, and therefore has a tendency to act less carefully than it alternately would, leaving another party to hold some responsibility for the consequences of those actions. For example, a person with insurance against automobile theft may be less cautious about locking his or her car, because the negative consequences of vehicle theft are (partially) the responsibility of the insurance company.

Moral hazard also arises in a principal-agent problem, where one party, called an agent, acts on behalf of another party, called the principal. The agent usually has more information about his or her actions or intentions than the principal does, because the principal usually cannot completely monitor the agent. The agent may have an incentive to act inappropriately (from the viewpoint of the principal) if the interests of the agent and the principal are not aligned.

RETROSPECTIVE LEGISLATION

An ex post facto law (from the Latin for "after the fact") or retroactive law, is a law that retroactively changes the legal consequences of acts committed or the legal status of facts and relationships that existed prior to the enactment of the law. In reference to criminal law, it may criminalize actions that were legal when committed; or it may aggravate a crime by bringing it into a more severe category than it was in at the time it was committed; or it may change or increase the punishment prescribed for a crime, such as by adding new penalties or extending terms; or it may alter the rules of evidence in order to make conviction for a crime more likely than it would have been at the time of the action for which a defendant is prosecuted. Conversely, a form of ex post facto law commonly known as an amnesty law may decriminalize certain acts or alleviate possible punishments (for example by replacing the death sentence with life-long imprisonment) retroactively.

A fiduciary is someone who has undertaken to act for and on behalf of another in a particular matter in circumstances which give rise to a relationship of trust and confidence.

A fiduciary duty is the highest standard of care at either equity or law. A fiduciary (abbreviation fid) is expected to be extremely loyal to the person to whom he owes the duty (the "principal"): he must not put his personal interests before the duty, and must not profit from his position as a fiduciary, unless the principal consents. The word itself comes originally from the Latin fides, meaning faith, and fiducia, trust.

DUE PROCESS

Today, in many instances across the globe, the due process is given prominence especially when the following 3 criterion is satisfied.

a) People's lives are at stake.

b) Not respecting the due process would result in abuse of the due process in the future.

c) Verifiability of data obtained by the process is important.

This is especially displayed in the legal structure today. Today, any evidence obtained by a policemen by illegally breaking into a suspect's house is not recognized in a court of law.The above example proves that the law respects due process even if it is only one or two people who are affected by such a process.