

TXR-2033: Theological Ethics

Additional Background

(Not necessarily part of answer)

The use of the Bible in theological ethics is problematic because the Bible is not an ethical treatise but also contains history and the experiences of the dealings of God with His people and a commentary on them. However, attitudes, values, principles, rules and laws within it can inform ethics. This has been done in a literalist, relativist and cultural transpositionist fashion(?).

The important assumption that can be drawn though is that there is a Universal Law of the way things should be and that it has its origin in God. Man, through the use of reason, experiences this in the Natural Law evident in nature, 'the way things should be'.

Aquinas expressed this as the First Principle, 'Good is that which all things seek after'. This principle is to be applied universally, good is to be pursued, evil is to be avoided. Precepts (guide for actions) need then to be derived from this principle and these are then classed as primary and secondary precepts. The primary precepts are directly associated with the principle, e.g. life is to be upheld, death avoided (see below).

Background

Natural Law as the basis of ethics: not on faith but reason. A universal basis for ethics for all people, but based on the underlying idea that if people had a

common creator and all people are made in God's image, there should be a common basis for all moral theory. The difference between good and evil is not from divine revelation but seen from nature by deducing how things were intended to be from what they are.

The assumption then is that both will and mind of man is sound.

Protestantism has always perceived reason and mind to be flawed because of sin. However, there does seem to be a biblical case for observing nature and the ways things should be as a guide (Prov, Amos, Roms); the concept of conscience, in this case beyond ethnic and cultural boundaries. "Honesty" for example focuses on the fundamental character and motive of an action, rather than the consequences of that action.

Aristotle made the distinction between natural justice and legal justice. Owing to the abstraction between the "source" of justice (nature) and human constructs it is necessary to go back to the source. He firmly believed that there was only ever one purpose to everything and so the goal of ethics was to find it, 'living according to nature', its fundamental purpose.

Aquinas framed this as the 'first principle' from the 'First Cause'. There are primary, self-evident precepts (life, shared with others), sexuality/family, rational nature to know God....again all universal and observable in nature. Secondary precepts are prone to change.

So, such a basis for morality is very good at high level delineating of the principles but is vague when it comes to the specifics of defining what is the right thing to do. It is also more generally vulnerable:

1. Absolute moral order is not necessarily obvious;
2. Structure does not imply purpose;
3. Practical reason is too vague;
4. Objects could have multiple aims.

Deontology and Consequentialism

Deontology is primarily concerned with what might be termed “the Right”, in Kantian terms, that which is done according to duty.

Consequentialism is much more concerned with the results of a certain mode of conduct, an act is considered “good” because of its ends or consequences.

Deontology

Deontology owes its structure primarily to Kant. Kant considered the objective reality of the noumenal realm (unknowable) and so the realm of reason (considered the realm of the spirit) rather than the consequences which rely on causes and effects in the physical realm must be used when dealing with morality. Although ethics is *a priori* known it is nevertheless synthetic. He believed you did not learn what is right/wrong from experience. Morality becomes a matter of right and wrong resident in the noumenal realm and accessed by reason, it is independent of context, time and consequences.

To Aristotle, happiness was the chief end of ethics. Kant proposes that happiness can not be seen as an end in itself:

‘What is the chief end of man?...the more a cultivated reason deliberately devotes itself to the enjoyment of life and happiness, the more the man falls short of contentment...reason’s proper function must be to produce a will *good in itself* and not one good *merely as a means*’¹ (italics mine).

The question becomes, what ought I to do? This was framed by Kant as the categorical imperative from which the universability maxim derives. Our moral obligation to do what we *ought* to do is not based on our individual and subjective estimate of what is right but that there exist absolute moral rules. Kant rejects ethical relativism and asserts that societal differences merely mask common principles. This principle is called the *universability* maxim. An act is moral if it conforms to this principle. To Kant, God himself approves an action because it is right in and of itself rather than being right because God commands it². Thus, to certain theological schools, this presents the problem, “right” and “good” exist as entities in themselves, apart from God.

Happiness should be proportional to virtue.³ God must be the agency that reconciles these two requirements. There is no natural connection between virtue and happiness so there must be a *supernatural* one.

Thus, for deontology:

¹ Kant, I., *Fundamental Principles of the Metaphysics of Morals*, quoted in Lehmann op cit, p176

² Ramsey, I.T. (Ed), *Christian Ethics and Contemporary Philosophy*, p228, SCM, 1966.

³ Everitt, op.cit, p136.

1. There are absolute moral duties that you should just obey, even if the consequences are disastrous;
2. Wrong if it violates these duties, even if it does good (e.g. wrong to torture a terrorist, eavesdrop on the innocent).
3. The final consequence is that the only thing that can be called good without qualification is the “good will” which is in accordance with the noumenal realm.
4. Humans are an end in themselves, intrinsically valuable and so should have dignity and autonomy to live according to the categorical imperative.

Most controversially, he foresaw that all people, anywhere would always come to the same and right conclusions. Thus, for Kant, this categorical imperative is accessible to all people by the means of reason and that cultural differences only mask a set of common principles. Cultural relativism is completely rejected.

Thus, if criticisms were to be made:

1. Very little of the content of our moral obligations – abstract, formal.
2. Rigid and uncompassionate, denying our moral experience and insensitive to the realities of human life. For example, as “lying” violates the universability maxim, it follows that lying is always wrong and so lying to protect Jews from Nazis wanting to put them into a concentration camp, would be immoral.

3. Over-optimistic: reasonable people can come to different conclusions as to what is reasonable and right. The notion of a single, universal morality seems difficult to reconcile with the varieties of moral experience.
4. There are all kinds of duties both to your self and to others and these duties may seem to be in conflict. If doing my duty to myself violates the highest good that I could do to another, it would seem that I was violating the universability maxim. If duties are not all duties in every case (prima facie duties), are they really duties at all.

“Command” based system and this perhaps is both its strength and weakness depending on the perspective. If you are looking for a framework, then a divine framework is the obvious one to choose but to Kant, it is no good asking what “God” commands because we can never really know God.

Consequentialism

Sometimes known as “teleology” in that we are dealing either with the effects or ultimate ends of an action (the “good” that results from those actions, rather than with the nature of the actions themselves). In the most crudest formulation, the “end justifies the means”. If a greater good is seen to come from a wrong action, then it is justifiable. The rightness or wrongness of an action is judged by the result so it is an amoral system. In essence, what would normally be considered morally reprehensible can be made acceptable if it provides the greatest utility.

It owes most to the founder of utilitarianism, Jeremy Bentham. Bentham used the concept “nature” to ascribe two principles of human life, pain and pleasure. By observing nature, we see that the natural order of things is to maximise pleasure and to minimise pain. This is expressed by *the principle of utility*: “the greatest happiness of the greatest number”.

Thus, in criticism, utilitarianism which was really formulated and refined during the 19th century, may be seen responsible for the excesses of the 20th century political movements of Nazism and Communism which were both fundamentally influenced by it.

Thus, in the most extreme case of modern history, Germany (indeed one could say most of Europe) as a whole had decided that humanity was better served if the entire Jewish race was exterminated. The Jews were seen as the controlling power behind the money lending businesses or frequently had key positions in the community that were perceived as affording them unfair advantage. That the historical treatment had forced them into certain businesses because of their exclusion from others was ignored. There was only really an objection to the fundamental *how* Germany was going about it rather than why. Hermann Himmler, head of the SS, was quoted as saying that the death of twenty thousand Russian women and children from starvation or cold digging trenches was of no concern to him, as long as the greater good of German supremacy was asserted. Hitler believed that by “defending myself against the Jew, I am doing the work of the Lord”

considering the Nazis as heirs to the Lutheran program with regard to the Jews.

Such an extreme utilitarian formulation with Communism and other neo-Marxist thought is also seen. You are encouraged to think freely as long as your conclusions correspond to the “revolution”. If they do not, the good of society as a whole demands that any means necessary including imprisonment, torture and death may legitimately be employed. The Russian Constitution during the Communist era was an impressive document guaranteeing freedom of religion and expression but with the caveat that the State could intervene if it was against the good of society as a whole.

More generally:

1. It may be a naturalistic fallacy to assert that happiness is the fundamental motivation. Many studies of nature would seem to assert nature or natural processes may be deemed as cruel.
2. Even if this point is granted, utilitarianism completely divorces itself from the question as to whether it is “right” that the pursuit of happiness should be the universal moral currency.
3. The measurement or definition of happiness is problematic. Extreme self-orientation can only be psychologically destructive.

J S Mill refined utilitarianism and tried to address some of these criticisms. He redefined pleasure so that the “higher pleasures” would result from the application of reason. To follow the lower or “baser” pleasures would not be

profitable for lasting happiness, echoing Kant's description that the more a reason seeks after its personal fulfilment, the more frustrated the man will be: 'What is the chief end of man?...the more a cultivated reason deliberately devotes itself to the enjoyment of life and happiness, the more the man falls short of contentment...'

In practice, it would seem that a balance of the two systems are used in everyday decisions. The common dilemmas of abortion and euthanasia focus very particularly what each of the ethical theories can bring to the argument. An absolute logical formalism from a strict deontological point of view would see no difference between the abortion of a child to save the mother and an abortion of the child out of convenience as an unwelcome interruption to a career for a high-flying professional lady whom "unintentionally" got pregnant. The issue at stake for many deontologists would be the moral character of the killing of the innocent, defenceless person in the womb. If both mother and child die, this would be the moral way to act. However, the more measured may admit the "motives" of preserving the mother's life through the law of double-effect, this is a concession. If life is seen as the most valuable commodity, to save it would be the most valuable moral component.

To the utilitarian, the question of abortion is often not framed in terms of personhood at all but in terms of the good to first the individual and then society as a whole. A child likely to be born disabled should be aborted because of the cost and inconvenience to the parents and society as a whole. Would it not be better, 'for a child likely to be dependent on others for the

whole of their life to be aborted and go straight to heaven?' The spiralling cost of maintaining the low quality of life of the elderly may require that society adopt a humane euthanasia policy. Passive euthanasia through non-intervention in palliative care is now becoming an effective reality for cash-starved hospitals, regardless of the wishes of both patients and family. People can not access certain drugs in England and Wales that are available in Scotland because of the prohibitive cost.

Thus, in summary, it would seem that the theories provide starting points for the overall ethical structure but are lacking when it comes to defining the details of moral behaviour. A synthesis of the morality of action and the end result seem to be required to avoid the extreme formulations of them both.

Assess the ways in which ethical theories could affect attitudes towards crime and punishment

Justice

Justice is a concept that has both legal and ethical aspects. Justice may be considered as attributive, comparative, distributive and commutative.

Attributive justice is to do with reward and sanction regarding what is considered acceptable or unacceptable to society.

Comparative justice may be considered the requirement for restitution.

Distributive justice involves the fair distribution of goods and services within society.

Commutative justice examines how to deal fairly in business and commerce.

Thus, the repeating concept within all the aspects of justice is fairness and people getting what they deserve which has both retributive aspects and restorative aspects. Hence the common use of the balance as the symbol.

To Christians, the justice of God is encapsulated in Christ and the Cross.

Some Protestants would see justice in terms of “grace” and the Good News where as many Catholics, after Aquinas’ reinterpretation of Aristotle, see a major role for natural law where justice is resident in humanity generally and not just for the redeemed community. The unjust died for the just.

Reformation radically reassessed this concept so that, in the words of Luther, he now knew God to be gracious and, loving and forgiving; he had a very negative view of human ethical striving.

Justice from this perspective is not vindictive, unrelenting or mechanical, nor is it cheap grace which disguises the gravity of offence and broken relationships. Justice is essentially the healing of relationships, the overcoming of animosities. Its goal is reconciliation and the restoration of community.

Guilt and retribution are not to be avoided though in this system. The truth must be confronted and moral responsibility accepted, reconciliation is the aim. Experiments in social justice became tyrannical regimes. Similarly with welfare projects, the results have been far different from what was intended.

Narrower accounts of justice as fairness, or impartiality, or giving to each one what is due are harmful if they are lacking these wider components of generosity, mercy and forgiveness. Tillich used the term “creative justice”, where it is the operation of the grace that forgives in order to reunite. The justice rises above questions of merit and tribute. The Aristotlean view is essentially hierarchical and sees treating equals as equals and unequals according to the differences between them. People get what they deserve.

Liberalism, in the form of Kantian ethics, strongly emphasises the idea that there is a universal concept of justice that can be arrived at by logic and reason. The stress is on the individual. Where the individual and their interaction is not seen as primary but rather it is the community as a whole, utilitarian ideas (‘judging moral actions by their consequences to that community’). Feminist ethics would emphasise that “caring” is an affective

voice within ethics and this must be brought to bear when defining what is just.

For the postmodernist, there is no shared vision of the common good or the substance of justice. Some approaches are relativistic in the extreme and egocentric. In the strict logical sense and following the post-modern mantra, it is difficult to arrive at any concept of what constitutes crime and furthermore, how it could be punished justly.

Virtue Ethics

Virtue ethics is concerned with developing the character of actions. Aristotle developed the concept of the 'golden mean' where the prudent path would be the mid-point between the two extremes. Thus, courage is not the opposite of cowardice but the mid-point between bravado and cowardice.

He called this prudent path 'practical wisdom', the wisdom to act well. The chief strength of this approach is that it deals with the actual process of making decisions rather than with resolving the philosophical issues around ethics. However, its emphasis on balance implies it has a lot to say to the process of judgement within justice.

Crime and Punishment

The symbols of the 'scales of justice' refer constantly to this balance between fairness and the 'just deserts' of anti-social action. In most societies, the punishment of criminals is considered a justifiable action. Most directly for criminals, the punishment should be 'just' and fit the crime. In this sense,

justice is retributive (punishment for wrongdoing, reward for reformation).

There may also be reparative elements where restitution is made to that which is lost.

The utilitarian theory justifies punishment solely in terms of its good consequences or in its negative form, the actions which produce the least amount of evil. The chief function of punishment is to reduce crime and so there are both the deterrent aspects (reality of punishment when norms are violated) and the reforming/rehabilitating aspects where the resulting good to society is seen as necessary.

For an offender to be put into prison, the evil of further corruption is possible unless an alternative to prison is found. However, if the criminal was deemed to be a public risk, that would be the lesser evil.

Deterrence in punishment as the obvious reason for preventing criminal activity effectively uses the person as a means to an end.

To a retributivist, no such scruples are necessary. The crime has a designated punishment and if the offender is corrupted, the possibility of permanent imprisonment or capital punishment is available. Society has to strongly define right and wrong, acceptable and non-acceptable conduct. The retributive theory, which may be seen to have a deontological emphasis on the rightness and wrongness of an act in terms of the act itself, emphasises that wrongdoers deserve to suffer for what they have done whether or not that

suffering or punishment produces any good results. Punishment is owed and due to satisfy justice.

The utilitarian theory, framed as it is in an amoral context in the sense that right/wrong are ignored and it is good/bad that are significant, followed to its logical conclusion results in what might be considered instinctively 'unjust' situations. If it is expedient to fabricate evidence for the 'greater good', that is perfectly acceptable. A vigilante group that attacks suspected paedophiles is to be commended, even if they occasionally get it wrong for a greater good to that community (the absence of paedophiles) results.

Thus, in reality there needs to be a tempering of the extremes. A simple retributive model would be unsatisfactory for most societies if the concept of justice includes the opportunity for redemption and reform of an offender. Many offenders go on to make a valuable contribution to society arising from initiatives and courses taken whilst in prison.

The biblical evidence regarding punishment of offenders has both deontological elements and utilitarian elements. Context and motive clearly both play a part. There is an obvious emphasis on the nature and motive when deciding on punishment. Capital punishment for those crimes considered primarily morally aberrant or abhorrent were common with the safeguards of multiple witnesses and the putting to death of false witnesses are features seen to serve the cause of justice. As are the mercy shown to the thief that steals out of their poverty. There was the involvement of the

victims in the punishment of the criminal but the clear limits of what was considered acceptable punishment ('eye for an eye'). It was clear that both individual aspirations and expectations were balanced by the wider societal concerns.

Certain pecuniary punishments are considered woefully unjust because they do not match the crime in any meaningful way. In many countries in the world, the prison regimes are brutal and sadistic with routine violence by staff and other inmates. Even in so-called "advanced" societies prisons become communities dominated by an unholy alliance of senior criminals and staff that see no intrinsic value in the prisoners at all, "they get what they deserve". The ritual humiliation of sex offenders on admission to British jails where they would be forced to announce on admission their crimes in front of the other prisoners and the guards would then be called away so that "justice" could be seen to be done by other criminals, emphasises the need for some concept of value to be ascribed to people simply because they are human, *Christ died for sinners whilst they were still sinners.*

Capital Punishment

Romans 13 provides the basis for the understanding that the State as an institution ordained by God for the good of mankind, 'All authorities are ordained by God'. This is obviously problematic when considering totalitarian regimes but Calvin was most unforgiving even in these situations, people were deemed to have the rulers they "deserved". Luther did concede certain situations in which it would be legitimate to contest the will of the secular and indeed church authorities (as he himself did).

Many Christian theologians would qualify the thought that it would not be expected that someone would blaspheme God on account of intimidation by ordained authorities. It would be considered inappropriate to contest authorities in a society that respects God and has due regard for justice, grace and mercy.

Capital punishment is an issue that because of its extreme nature tends to produce extreme polarised positions between those that emphasise the retributive requirements of justice and those that emphasise the ineffectiveness of capital punishment in parts of the world where its use is still routine. The utilitarian would be obliged to opt for the most “efficient” mode of punishment, regardless of the perceived moral character of the crime.

It may be justified in terms of the “common good” for society and as the only suitable punishments for certain crimes. Public opinion most certainly regards certain sexual crimes against children or serial offences as suitable for capital punishment. The biblical position often reiterated is that when killing is intentional (“murder”) then the life is required of the perpetrator. The Levitical code uses the term “the life is in the blood” and seems to be ascribing value to the life itself. However, where killing is accidental the perpetrator was allowed to flee to a city of refuge to escape from simple vengeance from relatives. Judgement was then brought at a later date. This demonstrates the biblical evidence for a measured balance between retributive and utilitarian concerns.

Aristotle's concept of the "golden mean" where virtue is located between the two extremes has much merit to it. This virtue is not only the quantity but timing, reason and manner, "professionalism".