

# ISSA Proceedings 2014 - Ethical Arguments For Moral Principles

*Abstract:* Application arguments in ethics, from an argumentation theoretic perspective, are rather trivial; however they always rely on moral principles whose justification is a notoriously thorny problem. A critique of several trials of such justifications helps to formulate adequacy conditions for good justifications of moral principles. The main part of the article develops an adequate conception of the justification of moral principles as an argument for a specific thesis about such principles.

*Keywords:* adequacy of justification conceptions, epistemological approach to argumentation, ethical arguments, ethical constructivism, function of morals, instrumentalist justification of morals, justification of moral principles, moral motivation, practical justification, reduction of argument schemes.

## *1. The aim of the paper*

The abundance of argument types and reasoning approaches to ethics is a real jungle. An impression of the complexity of the various types of reasoning and argumentation of the corresponding theoretical issues is provided in Walton's "Ethical Argumentation" (Walton 2002). To try to give an overview of this material here is illusory. Rather, I will focus on some, in my opinion, systematically central questions:

1. What types of good central arguments are there in applied ethics?
2. What are the main approaches to the justification of moral principles, and how useful are they?
3. How does the best of these approaches to justification, an instrumentalist, constructivist approach, work in detail and what argument types are used in it?

The brief look at the first question serves only to the discussion, which is thus focused on certain aspects of justification in normative ethics; the article's main aim is to sketch a systematic conception of justifying moral principles. In dealing with certain questions of how to proceed in normative ethics, the article in itself is metaethical: it provides criteria for good argumentation in normative ethics, but not yet moral principles.

The following analysis of argument types and the criteria for their evaluation are

based on the epistemological approach in argumentation theory, according to which the standard function of argumentation is to rationally convince, i.e. to guide an addressee in acquiring knowledge or justified belief.**[i]** The particular approach to justifying moral principles presented in the following is based on my previous metaethical work, most of which has not yet been published in English.**[ii]**

## *2. Argumentation in applied ethics – the recourse to moral principles*

According to the most broadly accepted understanding, applied ethics should just apply basic and most general moral principles to groups of more specific typical cases or, in cases of singular decisions of great importance – such as the basic lines of a political or economic system or the determination of climate targets –, even to individual cases. If the moral principles are clear, this application should not be a problem in principle. (“In principle” here means that it is clear how to proceed – which neither rules out the possibility that, for example, very complex or comprehensive empirical information, which is not only expensive to procure and process but may exist only in very uncertain or vague form, is needed, nor precludes that evaluations from the perspective of those affected are very difficult to perform.) The two main types of applied ethical arguments conceived in this way are, first, deontic arguments for deontic judgments (about moral obligations) and, second, consequentialist axiological, in particular welfare ethical, arguments for moral appraisals.

*Deontic judgments* are judgments with the deontic operators ‘(morally) obligatory’, ‘(morally) forbidden’ and ‘(morally) allowed’. Deontic arguments then are arguments that justify deontic judgments from deontic premises. The default case is that in a deductive argument a more specific deontic claim is derived from, first, a general deontic premise, second, empirical premises and, possibly third, interpretive premises (or lemmata) – whether the empirical situation fulfils the conditions of the deontic premise. In the present context it is decisive that the major premise of deontic arguments be a general deontic norm, ultimately – if one considers the justification of less basic deontic norms on the basis of moral principles (in the strict sense) – a deontic moral principle.

Frequently the final, deductive step of a complex deontic argument is relatively trivial in argumentation theoretical terms. What is often more difficult is the justification of the empirical and especially the interpretive premises, as to whether a certain condition of the norm in question is fulfilled. In legal

argumentation theory, there are several basic approaches to this interpretation problem. The two most important are:

1. What counts for the interpretation is the legislator's intention - this approach can not be applied to moral deontic arguments, because there is no legislator.
2. What counts for the interpretation is the (moral) sense of the norm: Which (morally) desirable state is to be achieved with it? Which (morally) undesirable state it to be prevented? The latter question already regards moral evaluations.

*Axiological (moral) arguments* are arguments for (moral) value judgments or appraisals. Nowadays, the most broadly accepted understanding (and thus the underlying evaluation criterion) of moral value judgments is consequentialist, in particular welfare ethical (or welfarist). The *moral value* (or the moral desirability or moral benefit) of an object  $p$  is then an aggregation or function of the individual utilities of  $p$  for all affected by  $p$ . Therefore, in comprehensive welfare ethical axiological arguments, first, it is determined who are the beings affected by  $p$ . Second, the expected utilities of  $p$  for these various individuals is determined; this is done in practical arguments that ultimately list and evaluate the pros and cons of the assessed object  $p$  for the person concerned. The third and final step is really moral: These individual expected utilities must be "aggregated" to the moral desirability of  $p$  according to one of the ethical evaluation criteria, e.g. a utilitarian, an egalitarian or a prioritarian criterion. This final argumentative step is deductive. In the present context it is again decisive that this applied argument presupposes a moral principle, namely a criterion for moral valuation.

As was just shown, the basic structure of applied ethical arguments is simple and easy to systematise in argumentation theoretic terms. But they always presuppose moral principles, namely basic moral norms or moral evaluation criteria. The real problem of ethical argumentation is the justification of the latter.

### *3. Arguments for moral principles - some competing approaches and some instructive failures*

The currently most important approaches to justifying moral principles are moral realism and value objectivism, methodological intuitionism, the game-theoretic approach and the instrumentalist, constructivist approach.

Moral realism and value objectivism are theories according to which there is a moral reality of norms and values independent of the aspirations, motivations and

desires of the moral subjects (e.g. Brink 1989; Dancy 2000; McNaughton 1988; Shafer-Landau 2003). These theories have been criticized in ethics from both an epistemological and ontological standpoints: Moral values and norms conceived in this way are, e.g., ontologically odd entities that also are unknowable; and so far nobody has submitted a valid argumentative justification of realistically conceived norms or values (cf. Mackie 1977, ch. 1). I will not repeat these arguments here. In our context, another criticism is even more important: the type of claim that moral realism and value objectivism try to justify misses the particularity of material ethics: Even if these theories were right, then there would exist just one more sort of layer of reality – in addition to colours, smells, shapes, sounds, etc., and theoretical entities (such as electrons, quarks, etc.), there would be also moral entities such as ‘norms’ and ‘values’. However, this would say nothing about how we should behave with respect to these and other entities. The basic question of material ethics is not: ‘How is the world?’, but: ‘What shall I do (from a moral perspective)?’, ‘How shall I decide (morally)?’ (Hampshire 1949). Value objectivism and moral realism overlook the practical side of ethics, its function of effectively orientating our actions. And this practical side means in particular that the material ethical recognition of some morals must motivate the subject (to some degree) to accept and observe that morality. Ethics that are not designed respectively are pragmatically irrelevant; people do not act on such ethics; and, therefore, ethicists can ignore them too. In positive terms, this means: The statements of material ethics must be designed in such a way that, first, what should be done follows from them and information about the respective situation (informational aspect of orientation), and, second, that knowledge of these statements also mostly motivates to the respective actions (motivational aspect of orientation). I call this condition the “*practical*” or “*motivation requirement*.”

“*Methodological intuitionism*” means here a methodological approach which bases the justification of morals primarily on our moral intuitions. Simple forms of methodological intuitionism accept (unfiltered or, alternatively, well-considered) individual intuitions; more sophisticated forms, such as Rawls’ theory of reflective equilibrium, try to develop an intuitively accepted coherent system from the various intuitions by reconsidering intuitions which lead to incoherence (e.g. Rawls <1971> 1999, §§ 4; 9; Daniels 1996; other intuitionist approaches: Audi 2004; Ewing 1953; Humer 2005; Stratton-Lake 2002). In the most condensed (and therefore only thetic) form the main criticisms of this approach are:

1. Our “intuitions” are not primitive and natural psychological reactions, but the

result of a lengthy, culturally, cognitively, emotionally and motivationally influenced ontogenetic development process (Lumer 2002; overview of some theories: Lumer 2014b, 27-29).

2. The recourse to one's own intuitions is not a justification, but begs the question.

3. Since they dispense with any real justification such intuitions are fickle; in particular, they are in principle vulnerable to the challenge of obtaining new information of all kinds. - One important aspect of these three criticisms can be converted into the positive formal requirement: The justification of moral principles must be stable with respect to new information, i.e. the justification must be such that the practical and motivating acceptance of these principles is not affected by new information.

*Game theoretical moral justifications* (e.g. Binmore 1994; Gauthier 1986) try to show directly, by means of practical arguments, that a certain kind of moral action is optimal for the agent. In particular, they utilise the fact that the individual benefits for all partners can rise through social cooperation. As opposed to the approaches to justification considered so far, game-theoretic moral justifications are real justifications: They show by practical arguments that certain strategies are optimal. They also meet the two previously established conditions of adequacy for the justification of morals: Game theoretical justifications motivate to comply with morals stably with respect to new information. Problems of a game theoretical-justification of morals lie elsewhere.

1. From the point of view of material ethics, they are very weak, only a minimal or business ethics, which for example do not protect the most vulnerable who have nothing to offer for cooperation (Trapp 1998).

2. Game-theoretically justified ethics of cooperation are structurally flawed in a fundamental way: They do not comprise any moral desirability function and no moral evaluation; thereby they also fail to provide the basis for moral emotions. Accordingly, in such ethics, for example, one cannot say that a collaboration was indeed rational for all parties involved, but was still unjust and morally wrong. (Lumer 2010, pp. 564-568.) - In brief, the flaw of the game theoretic-approach is that it ignores the goal or function of morality. In positive terms, this criticism leads to a further requirement for the argumentative justification of morals: *moral instrumentality*: The justified morality must meet the objectives or the function of morals.

If one wants to meet the practical requirement and the condition of stability with respect to new information, there seems to be no way to do so without the game-theoretical justification of morals. This seems so because, if it has been shown that a particular strategy is optimal, then there is just no alternative strategy that can be shown to be better and to whose compliance we can be motivated stably with respect to new information. But this reasoning is fallacious. The point of departure of game-theoretical ethics is that it wants to satisfy the practical requirement in a too direct, individualistic situation-bound approach. It is asked directly: 'What action is optimal in (given) cooperation situations?' and then the respective action is prescribed (mere individual optimisation). Alternatively, this optimality can also be understood as a necessary and limiting condition which must be fulfilled in the end by a well-constructed morality. So one first constructs a morality whose realisation might also change the action situation of the subject, and also sees to it that, in the end, the observance of this morality is also optimal for the subject - but maybe just because the situation has already been changed (socially prestructured optimisation). In this indirect approach, it is then more likely that the demands of such a morality coincide with our stronger intuitive moral beliefs. This alternative approach is to be pursued below.

Another, fourth approach to justifying moral principles is constructivist and instrumentalist: morality is a good instrument for fulfilling certain social functions (cf. e.g. Mackie 1977, ch. 5). This approach can meet the three previously developed conditions of adequacy. It is further elaborated in the following.

#### *4. Instrumentalist arguments for moral principles - the general idea and adequacy conditions for justification theses*

The initial problem for a conception of argumentative justification of moral principles, in particular with an epistemological approach, is the following discrepancy: On the one hand, rational arguments have the standard function of leading to knowledge or cognitions, i.e. justified beliefs, where the objects or contents of these beliefs are propositions, or more precisely: judgments (i.e. propositions with an assertive mode), which make up the argument's thesis. This is the epistemic side of arguments in general. On the other hand, the objects of moral justifications of moral principles, however, are not judgments but moral principles; apart from moral principles one can also morally justify actions, norms, constitutions, evaluation criteria etc., which are not judgments either. Furthermore, apart from not being the right kind of objects of arguments (viz.

judgments), the justifications of such objects should not simply lead to new insights, but also to the *practical acceptance* of these objects, namely to a particular motivation with respect to these objects. This is the moral and practical side of moral justifications.

The simplest and clearest way to bring the epistemic and the practical requirements together is to design such moral justifications as arguments for a thesis about the object of justification, i.e. about the moral principle, etc. However, this cannot be *any* thesis; but the justification for this thesis must meet certain conditions; a thesis which fulfils these conditions is the *justification thesis* for moral principles. In this way the epistemic requirement can be met by the fact that the justification still consists in an argumentatively valid and adequate argument which leads to justified belief, and the practical and moral requirements can be met by selecting a particular thesis about the object to be justified. Now my proposal is that the special conditions for moral justification theses about moral principles are identical to (or a superset of) the adequacy conditions already developed in the criticism of the alternative conceptions of the justification of moral principles. Hence the adequacy conditions for moral justification theses are:

*Adequacy Condition 1: Motivation or practical requirement:* Moral justification theses about moral principles are motivating in the sense that if a prudent addressee (i.e.: an epistemically and practically rational addressee with certain relevant information) is justifiedly convinced of the justification thesis, he is motivated at least to some extent to adopt and observe the moral principle.

Some reasons for the motivation requirement are:

1. The motivation requirement is the specifically practical component of the conception for justifying moral principles. The development and justification of moral principles are part of *practical* philosophy and as such should generally have a corresponding influence on the practice, lead to the *practical* and not only to the theoretical acceptance of the justified object.
2. Fulfilling the motivation requirement ensures the *relevance of the insights*. One could have infinitely many different insights about moral principles. The vast majority of them would be so arbitrary and irrelevant, that we do not even know why what they say should be a reason for the moral principles. Relevances are constituted, however, - leaving aside our feelings - only by a relation to our motives.

3. A justification which satisfies the motivation requirement has the pragmatic advantage that it can actually make a difference.

*Adequacy Condition 2: The motivating effect's stability with respect to new information:* The motivating effect of a justified conviction of a justification thesis is stable with respect to new information, i.e. it is not lost as a consequence of acquiring additional true information.

Some reasons for this condition are:

1. Stability with respect to new information is the *rational* component of the concept of justifying moral principles. The only thing we can directly rationalise (in the sense of making rational) are beliefs, indirectly also actions and other things. And the two main directions of that rationalisation are: first, to make our beliefs true, i.e. to acquire possibly only true beliefs (or correct false beliefs) by observing epistemological rules and, second, to increase the number of true beliefs. The requirement of the motivation's stability with respect to new information introduces the practically relevant maximum of epistemic rationality into the conception of practical justification.

2. Stability with respect to new information prevents the justification from being persuasive in a pejorative sense, namely that the addressee practically accepts the object of justification only because he does not have certain information. Stability with respect to new information here introduces an element of *wisdom*, wisdom in the sense of transcending particular and isolated knowledge toward a comprehensive knowledge about the basic questions of life.

3. Stability with respect to new information contributes to the longevity of the motivating effect.

*Adequacy condition 3: Moral instrumentality:* Moral principles for which the justification thesis is true, fulfill the function of such principles, they meet the instrumental requirements for such principles and morals in general.

Some reasons for this condition are:

1. Moral instrumentality is the specifically *moral* component of the conception of justification. If the "justified" moral principles do not fulfill the function of morality we are no longer dealing with a justification of a morality.

2. As a consequence of their moral instrumentality the resulting moral principles correspond more easily to what we intuitively expect from morals.



### 5. *The function of moral valuation: prudential consensualism*

The next central question of this conception of the justification of moral principles is, what then is the function of moral principles and of morals altogether? And above all, how can we determine this function and again justify it? I see two approaches for identifying and determining the function of morals. One is idealising-hermeneutic, the other is technical-constructive.

With the *idealising-hermeneutic approach*, one tries to determine the sense and function of the existing morality. First, one explores the general intentions of the morals of the moral agents, which have to do with the function of morals, in particular the intentions of moral reformers; or one infers from the make-up of the moral institutions themselves which function they might have. In this enterprise not all components of the moral subjects' intention are interesting, but primarily those components that have to do with the intended purpose or the structure and functioning of morals in general, of general components of morality (norms, evaluations, virtues, etc.) as well as of singular concrete elements, i.e. instruments of this morality. The argumentative means to support such statements about the agents' intentions are interpretive arguments in which the intentional causes of actions are reconstructed. The collection of such contents of intentions leads only to a series of fragments and often only to superficial ideas or even misconceptions. In the systematically second step of the idealising-hermeneutic analysis, the best must be filtered out from such intention pieces and then synthesised to complete ideals: Which conception of morality composed of such fragments of intentions is the best? Practical arguments for (amoral) value judgments (Lumer 2014a) are used for the argumentative justification of this last step.

Idealising hermeneutical justifications of the function of morals flow smoothly into *technical-constructive justifications*. The aim of technical-constructive justifications is to create good instruments, thus in this case good conceptions of the function of morality, which are valuable to all moral subjects, and therefore are used by them. The argumentative means for the final technical-constructive justification of a function of morals are practical arguments in which the advantages and disadvantages of these functions for the individuals are presented and the best conception is filtered out.

In order to be able to explain the further course of argumentative justification of moral principles, substantive results about the function of morals are required.

There are some formal, structural results on the one hand, and real material results on the other. The most important structural results are the following.

1. The basic principles of morality are, first, the criteria for moral evaluation and, second, moral precepts or norms. The relationship between these components which is technically most fertile and best adapted to the human way of deciding is this: First the criteria for moral evaluation are developed; with their help then in the next step all other objects of morality, i.e. norms, rules, institutions, virtues, etc., are instrumentally justified as being morally good, i.e. producing relatively much moral value.

2. With this setup, the question of the aim or function of morality initially is reduced to the question of the function of moral valuations, evaluation criteria and desirability functions.

With respect to the function of a moral value function, so far I have to offer only a hypothesis about the purpose or sense of a *socially binding morality*, which – unlike an individual morality – is designed to regulate social relations in an intersubjectively binding way. The sense of a socially binding moral desirability function could be *prudential-consensualistic*:

1. First, there is the *consensualistic requirement*: Socially binding moral evaluation criteria constitute a common moral value system that provides the intersubjectively shared standard

(i) for assessing socially relevant measures,

(ii) for planning social projects and

(iii) for consensual arbitration of interpersonal conflicts of interest.

In addition, for the individuals the purpose or sense of such an intersubjectively shared value system could be to procure a benchmark for self-transcendent ego ideals and actions. I call this quality of the desired moral value functions “*subject universalism*”, i.e. the value of all value objects (or more precisely the value relation of every two value objects  $p$  and  $q$  ( $= U(p)/U(q)$ ) of this value function is roughly identical for all (or nearly all **[iii]**) moral subjects of the moral community. (Expressed somewhat formally: for (nearly) all moral subjects  $i$  and  $j$  and all value objects  $p$  and  $q$  holds:  $U_i(p)/U_i(q) \approx U_j(p)/U_j(q)$ .) So if e.g. for Adam the present well-being of Clara is better than that of Dora, the same should hold for Bert, i.e. for Bert too the present well-being of Clara is better than that of Dora. Subject universalism has to be distinguished from *beneficiary universalism*, which is the quality of a moral value function to include all possible beneficiaries

of a value function, i.e. the objects to whose fate a non-neutral value in that value function is attributed. Subject universalism does not imply beneficiary universalism analytically, but empirically.

2. Second, there is the *prudential requirement*: Subject universalism speaks of intersubjectively identical valuations, but what kind of valuations are intended here? The prudential requirement is that the subjective value functions to be compared according to subject universalism be parts or components of the subjects' *prudential desirability functions*. Prudential desirability functions express what is good for the respective subject and hence rationally or from a prudential point of view should be the guideline of the subject's decision; prudential desirability functions are constructed similarly to the utility functions of rational decision theory but with much stricter, philosophically developed standards, which also permit the criticism and correction of the subject's present instrumental or even intrinsic preferences (cf. e.g. Brandt 1979, part I; Lumer <2000> 2009, 241-428; 521-548). Prudential desirability functions are intersubjectively different - that I have a headache is mainly bad for me and neutral for you, and the reverse holds for your headache -; otherwise they could not express the *personal good*. Therefore, the subject universalistic requirement is not intended to refer to complete prudential desirability functions but only to parts (considering a certain set of value objects) or components thereof. What is a component of a desirability function? In prudential desirability functions the total desirability of an object  $p$  (for the respective subject) is consequentialistically conceived as the desirability (and in the end the intrinsic desirability) of its ( $p$ 's) various consequences plus the intrinsic desirability of  $p$  itself. The various consequences together with the way they come about are the different aspects of the value object, e.g. the hedonic aspect of bringing about immediate pleasure or pain, the financial aspect of altering the subject's financial endowment, the empathic aspect of altering the person's state of compassion etc. A *component of a prudential desirability function* is then a desirability function constituted of the personal desirability of only one particular aspect of the value objects in question - such as the immediate hedonic, the financial or the empathic component of the desirability function which evaluates the objects only in these respects. - While the consensualist, subject universalistic part of the conception of the socially binding morality expresses more directly the function and instrumentality of morality, the prudentialist part already accommodates the conditions formulated in the first two adequacy conditions for moral justification theses:

(i) To be practically influential and to provide a chance of realisation, the subjective desirability functions the consensus of which makes up subject universalism have to be motivational. Prudential desirability functions are motivational because they rely on subjective (decisional) preferences.

(ii) To be really in the interest of the subject and to be stable with respect to new information, the desirability functions should also be prudential.

#### 6. Arguments for moral principles - the justification theses

After this preparatory work we can now formulate the *justification thesis about moral value functions*:

*'V is the value function which fulfils the function of moral value functions, and stably with respect to new information, motivates (prudent and informed subjects) proportionally to the V-value.'*

More specifically, if we fill in the prudential-consensualistic conception of socially binding morals, the thesis is:

*'The value function V is prudential-consensualistic, i.e. V is proportional to the sum of all subject universalistic parts or components of the prudential desirability functions of (nearly) all moral subjects of the moral community.'*

The next step of the justification of morals is to enquire empirically, with the help of empirical decision theory and moral psychology, which desirability function fulfils the condition formulated in the justification thesis. This is beyond the topic of this paper. In other publications (Lumer <2000> 2009, 577-616; 2002), however, I have come to the conclusion that interpersonally (nearly) identical components of our prudential desirability functions arise in particular from our expected *compassion* and our expected *feelings of respect*. Adam and Bert may e.g. expect to feel similar compassion for Clara who will have a severe headache as a consequence of an accident, where the compassion in turn is also undesirable for Adam and Bert. If this expectancy and empathic desirability can be generalised, Clara's headache is morally bad. (Elaboration of a moral value function based on compassion: Lumer <2000> 2009, pp. 616-632.)

So far we have dealt with the meaning, sense or function of moral value criteria. The function of all other instruments of morality, that is of moral norms, rules, institutions, virtues, etc., according to the axiological structural approach followed here, then consists in increasing the moral desirability of the world: they

are means to the moral improvement of the world. The conception of their justification is straightforward: They are justified by practical arguments, which show that they have the highest possible moral value among the presently realisable instruments of this kind. The *justification thesis about moral norms, rules, institutions, virtues, etc.*, accordingly is: 'x is a norm (or rule, institution, virtue, etc.), and x is the morally best (or at least rather relatively good) among the presently realisable norms (respectively rules, institutions, virtues, etc).'

Again, applying this conception of the justification of moral norms etc. is beyond the scope of this paper. One remark, however, might complete the idea of the conception presented. The moral desirability function always is only one component of an individual's prudential desirability function such that the motivation to do what is morally good often will be too weak and the respective action will not be executed. The key instrument for resolving this problem and for strengthening the motivation to do the morally good is *social norms*, i.e. general ways of behaviour that in a certain community are followed almost generally and for which it holds that if they are not followed, punishments will be imposed. If these social norms are morally good then the individual moral motivation plus the fear of punishment together may be sufficiently strong to do the normatively required; i.e. in such a structured situation it will mostly be prudentially optimum to fulfill the moral demands.

## NOTES

**i.** For an overview of the epistemological approach to argumentation see: Lumer 2005b. Some major pieces of my own account within the epistemological approach, i.e. the Practical Theory of Argumentation, are: Lumer 1990; 2005a; 2011a; 2014a.

**ii.** The most comprehensive exposition is: Lumer <2000> 2009, 30-127. Further elaboration of the instrumentalist aspect: Lumer 1999; 2004; 2010. Motivational basis of morals and ethical justification: Lumer 2002. Preliminary work: Lumer 1995. On the instrumentalist approach in philosophy in general: Lumer 2011b.

**iii.** The exception that the intersubjective equality of valuation is not fulfilled for some subjects is meant to capture very special cases like psychopaths whose personal value functions simply lack certain components. Of course, such exceptions lead to particular problems. However, no empirically based approach would probably ever work without permitting such exceptions.

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